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XVIII

CONCILIATION AND ARBITRATION IN THE COAL INDUSTRY OF AMERICA

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CONCILIATION AND ARBITRATION IN THE COAL INDUSTRY OF AMERICA

BY

ARTHUR E. SUFFERN, M.A.

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BOSTON AND NEW YORK
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PREFACE

This series of books owes its existence to the generosity of Messrs. Hart, Schaffner & Marx, of Chicago, who have shown a special interest in trying to draw the attention of American youth to the study of economic and commercial subjects. For this purpose they have delegated to the undersigned committee the task of selecting or approving of topics, making announcements, and awarding prizes annually for those who wish to compete.

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AUTHOR'S PREFACE

THE purpose of this study is to describe the methods of voluntary settlement of disputes in the coal industry. It is to be hoped that the spirit of coöperation developed among the operators and miners may spread into other industries. That such a spirit has come only after much strife and that it needs to develop more fully does not detract from the good results obtained or from its power to encourage employers and employees in other industries to emulate it. In order to put the relations between the contracting parties to wage agreements on an equitable basis the cultivation of a mutual understanding is necessary.

Both the operators and the miners have shown a broad, liberal, and tolerant spirit by the way in which they have coöperated in furnishing the source material which has made this study possible. In this connection I am especially indebted to Mr. H. N. Taylor and Mr. G. L. Scroggs, of the American Federation of Coal Operators, to Mr. W. D. Ryan, former Commissioner of the Southwestern Coal Operators, and to many other representatives of Coal Operators' associations. On the side of the miners the unfailing courtesy and generosity of Mr. John Mitchell, and Miss Elizabeth C. Morris, his secretary, in providing source material and in placing the facilities of Mr. Mitchell's private library at my command, are gratefully recognized. My grateful acknowledgments are due to Mr. Thomas Ashton, of the Miners' Federation of Great Britain, for a wealth of source material placed at my disposal. I hope to make larger use of it than space in this volume permits.

An expression of gratitude can but vaguely convey my appreciation of the coöperation and helpful criticism of Professors Henry R. Seager, Edwin R. A. Seligman, and Robert E. Chaddock, of Columbia University. The shortcomings of the work exist in spite of their helpfulness. Any attempt to formulate an expression of my appreciation of my wife's constant encouragement and coöperation can only prove inadequate.

ARTHUR E. SUFFERN.

COLUMBIA UNIVERSITY,
April 17, 1914.

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INTRODUCTION

In making a study of conciliation and arbitration in the coal industry of America we find another instance of the evolution from individual bargaining to a method of adjusting wages and settling differences by conferences between the employers and employees. That such an evolution has been brought about through response to changing conditions in transportation, markets, and industrial needs is only to be expected.

But with the adaptation to changing needs a new spirit has been born. The employers and employees have both learned the advantage of coöperation and organization and at the same time have gained a new tolerance each for the other. They have transferred the settlement of the wage controversy from scenes of force and violence to the conference hall, where reason and intellect are working out something bigger than mere trade agreements. That progress which comes as a result of the interplay of group forces, and after much testing, is likely to be better and freer from vexing conditions than the innovations which are brought about by attempting to work out a hard-and-fast rule of law. Where the employer and worker are willing to grant each other justice and the public fair treatment, we shall not need to increase the complexity of our administrative machinery. Here we have group organization and interests supplanting individualism, and greater freedom in working out their common welfare than could occur under government regulation. Membership in a local group and striving together for group interests have given the parties a concept of the meaning of membership in a larger national group and greater appreciation of efforts

looking to the public welfare. This is demonstrated by increasing deference to public opinion and a recognition of the necessity of fair treatment to all concerned. Both sides realize that their actions are of national importance as well as local, and that, if they are to wear the badge of desirable citizens, individual and group selfishness must be subordinated.

If the conciliation movement in settling labor disputes had contributed nothing more than men of the kind it has brought forward on both sides, it would be worth all the effort expended in building it up. The operators in their position as captains of industry would have been men of prominence anyhow, but the movement has surely made them larger-minded and more public-spirited. In the bituminous field men of large wealth, endowed with the qualities of leadership, find it necessary to adopt democratic methods of control in order to meet the solidarity of an opposing organization governed by democratic principles. Even in the anthracite field we find entrenched monopoly and autocratic leadership obliged to yield to this same force when once it asserts itself. A consideration of what the conciliation movement has done for the miners conveys some conception of what democracy rather than autocracy in industry really means in our national life. It has not only brought forth sane and capable leaders, but it has unified one of the most heterogeneous populations in any industry and, besides making them realize the necessity of having wise and efficient leaders, has shown them the power of democracy in the use of the vote.

We shall first direct our attention to the introduction and extension of conciliation and arbitration in the bituminous coal industry of America. The emphasis will be put upon the development of conciliation and arbitration as a system, with just enough of the historical to give a perspective of its evolution. In connection with the exten-

sion of the system we shall be concerned with the so-called "West Virginia Problem" which threatens to disrupt it.

In order to understand the forces behind the system we must first direct our attention to the organization of both parties, employers and employees. We are then in a position to appreciate the significance of the interstate joint conference of the central field and the importance of its methods and accomplishments. After the general agreement of the interstate joint conference, which establishes regulations between fields, has been considered, our interest is drawn to the adjustments that are made in the most highly developed of state joint conferences. In this connection we become acquainted with the machinery by which adjustments are made under the agreements. This is a quite different function from the formulation of agreements.

The conditions in the anthracite field then demand our attention. This field has had such a different history that it is impossible to relate it to the bituminous field. In fact there is no connection between them worthy of note before 1900, and even from that time on the evolution of the systems is different.

In the course of the survey thus made there are many indications that we are just approaching some of the problems with which Great Britain has already dealt in her coal industry. So we turn to a study of developments there to see what significance they may have for us.

In conclusion we find that the system of conciliation and arbitration involves us in new problems which have a vital relation to public welfare; that the public as a third party must concern itself with functions which the other two parties cannot be expected to perform; in short, that the public must be alive to the new industrial, social, and political problems which are arising from the evolution of the coal industry.

CONCILIATION AND ARBITRATION IN THE COAL INDUSTRY OF AMERICA

CHAPTER I

THE INTRODUCTION AND EXTENSION OF CONCILIATION IN THE BITUMINOUS FIELD

1. CAUSES

THE rise of such an elaborate system of settling disputes and fixing wages as exists in the coal industry calls for an explanation of its causes. Among these perhaps overproduction is the chief cause. The producers of coal in England felt the ill effects of overproduction as early as the seventeenth century[1] and it was early felt in this country. The term "overproduction" has been used by miners, operators, and economists who have made a study of this industry to describe a set of concrete conditions which have made it possible for the industry to produce an annual tonnage of coal much beyond the ordinary consumption. We shall use the term in this sense, and concern ourselves with the concrete factors which have contributed to the evolution of a system of industrial adjustment.

In periods of prosperity many mines were opened. During years of depression, instead of restricting production to meet the demand, the operators extended production to a point where the sale of the product brought a meager amount for capital and barely enabled labor to subsist. The underlying motive for such a procedure was the desire of the operators to make even small profits or

[1] Cohn, *Economic Journal* (the Journal of the British Economic Association, now the Journal of the Royal Economic Society), vol. 5, pp. 550-62.

to escape the necessity of closing their mines altogether with consequent deterioration in the properties. Their inability to withdraw their fixed capital from the coal industry and employ it in some other way gave a further impetus to such a policy. This state of affairs was further aggravated by the lack of any controlling factor in the industry which would offset the tendency to glut the market. That this capability of producing (with the available facilities in the industry) far beyond the demand exists may be easily shown wherever it is possible to get a fair estimate of daily production in the industry. A fair computation of daily production in the anthracite field in 1899 was 300,000 tons. Had the men been employed 250 days, which has very seldom been approached either in the anthracite or bituminous fields, the annual production would have been 75,000,000 tons. As a matter of fact, the production for that year was only 54,000,000 tons, and the miners were given work on only 180 days.[1] Evidently the demand for coal warranted production only to this extent. Similar conditions can be shown as far back in the coal industry as it is possible to get figures which approach reliability.

Supplementary to overproduction are the seasonal demand for coal and the employment of a surplus of men, which come in as factors to breed discontent and necessitate a system of adjustment.

With continued overproduction on a falling market capital insisted on what it regarded as legitimate returns on its investment. If any sacrifice was to be made, labor was the first to feel it in the form of reduced wages. This process generally goes on in industries which are exploiting natural resources and in manufacturing industries developed to the point where it is possible to produce beyond the demands of the market. The miner soon came

[1] See Warne, *Annals of the American Academy of Political and Social Science*, vol. 17, p. 20.

to feel that he should not be made to suffer from adverse economic pressure over which he had no control and he forthwith demanded regulatory measures to relieve his distress.

The immobility of labor, due to the isolated environment of the mining industry and the difficulty of moving to a new place, encouraged labor to remain in its old haunts during a period of depression. The situation brought a fall in wages and encouraged the rise of disputes. Thus conditions were favorable for a contest over a recognition of the rights of labor. The inadequacy of individual bargaining was soon seen, and a feeling of solidarity arose among the men who felt themselves oppressed by a common enemy. What may have been, under individual bargaining, a paternal relationship, in the contest for supremacy for selfish ends and control of industrial policy, became a covert or open hostility. The ways open to capital in the contest were to replace the laborers, starve them out, or compromise. The avenues open to the laborer were to hinder or thwart replacement and live as best he might until capital got ready to compromise.

With the consolidation of capital and the ownership of many mines it was possible to play off the men employed in one mine against the men in another. Mines were put on short time or closed entirely if the workers were dissatisfied with their conditions, while the men in the producing mines were made to feel that they could maintain their favorable position only so long as they remained docile. Furthermore, it was the policy of the unionists to share their work during a period of depression with their fellows rather than to permit them to be discharged.[1] The ability of capital to encourage and direct the flow of immigration and the increasing use of machinery were additional elements that tended further to aggravate the situation.

[1] *Report of Ohio Bureau of Labor Statistics*, 1883, p. 305.

Adverse working conditions of various degrees of importance were fundamental in encouraging the growth of a feeling of common interests among the laborers and the recognition of the fact that those conditions could not be changed by one group of men or by one group of employers. This common feeling had its birth among men bound only by a common language and forced itself forward in spite of the different national characteristics and customs of the English, Scotch, Irish, Welsh, and German[1] peoples. It would have come sooner among the workers of any one nationality had it not been for the counteracting influence of the influx of nationalities that did not have even a common language as a means of approach. Fortunately for the bituminous fields this influx did not come so rapidly as to overwhelm the union movement. In the anthracite region we find that, though the union was swamped by the influx from southern Europe, the fundamental economic conditions and adverse working regulations pressed so hard that it took but a spark of human sympathy from the solidly organized union field to set off a conflagration that swept twenty nationalities within its compass.

An element not to be forgotten is the development of education and opportunity for enlightenment that enabled competent leaders to come to the front and put the rank and file in a position to appreciate and support the policies necessary to bring results for all.

With the growth of canals, river navigation, and railroads, what had been local markets with monopolistic conditions widened into a general market in which all were competitors. This situation brought larger problems which needed coöperation for solution. The conclusion was constantly forced upon both parties that there must be on a few fundamental matters such uniformity as would enable competition to exist on a higher level.

[1] The Germans are included when referring to English-speaking peoples.

Under these conditions it was necessary to evolve a method of industrial adjustment. It is hoped that the concrete details which follow will fully bear out this hypothesis.

We shall endeavor to describe the rise and extension of a system of industrial adjustment which has met the needs of capital and labor employed in an industry where many complex problems arise. Varied working conditions, differences in productivity of mines, and the uncertainty of investment and of profits for capital are all factors underlying constant demands for change and readjustment. Conciliation and arbitration have their opportunity when the parties recognize the necessity for peaceful settlement. The individual worker cannot obtain justice in bargaining with his employer under the complex conditions of modern industry. When the employer recognizes this situation and the further fact that he cannot make his own position clear to his workers without a frank discussion of his problems, another important stage has been reached.

With the recognition of these fundamentals the parties seek to devise means that will enable them to come to an understanding, adjust inequalities, and extend the system. This must be done in order to govern, so far as possible, the economic forces which, under an unregulated régime, bring overproduction and depression.

2. CONDITIONS IN THE BITUMINOUS FIELD FROM THE CIVIL WAR TO THE JOINT MOVEMENT IN 1885

A. Early Organizations

a. American Miners' Association

In the forties and fifties the influx of British workmen imbued with Chartist ideas and the opening up of many coal fields to railroad traffic laid the foundations for a national movement among the miners of America. Pro-

duction was estimated at 6,500,000 tons in 1861 and there were about 30,000 miners in the industry.[1] Daniel Weaver, an Englishman, and Thomas Lloyd, a Welshman, were the prime movers in the first attempt at national organization. They were employed as miners in the Belleville Track, Illinois, and in January, 1861, issued an address to their fellow workers pointing out the necessity for improving the physical, mental, and social conditions within their ranks, calling for coöperation to reduce the animosity between the nationalities, and appealing for unity to force legislative action for the improvement of their condition.[2]

As a result of this address the convention held at St. Louis, Missouri, formed the "American Miners' Association" and elected Weaver president and Lloyd secretary. Local lodges formed the units of the organization, and they in turn were grouped into districts with a board of directors exercising general supervision over all. Besides the national officers the membership of the board was made up of one delegate from each lodge elected annually. These delegates met each year and elected national officers every two years. Each delegate was allowed a vote for every twenty members he represented. The organization spread rapidly in Illinois, Indiana, Ohio, and Maryland, and became active in obtaining legislative measures for mine inspection and general mining laws. In spite of its so-called national organization the time was not ripe for national action on policies governing the industry as a whole. During the Civil War the men easily profited by the rise in wages, but with local dissensions, popular disapproval of labor organizations, the return of men from the war, and the loss of local strikes in 1867 and 1868, the organization disintegrated.

[1] Warne, *Bulletin of Bureau of Labor*, no. 51, March, 1904.
[2] McBride, *The Labor Movement*, edited by McNeill, p. 245.

B. MINERS' AND LABORERS' BENEVOLENT ASSOCIATION

With the break-up of the American Miners' Association the active cohesion of the miners was maintained somewhat by the formation of local organizations. The Workingmen's Benevolent Association had been formed in the anthracite region of Pennsylvania in 1867.[1]

With the grant of a state charter in 1870 the organization became known as the Miners' and Laborers' Benevolent Association, and its influence was soon felt in Illinois, Indiana, Ohio, Pennsylvania, Maryland, and West Virginia. In these States it took the form of independent organizations which utilized the material left from the wreck of the American Miners' Association. "There was neither state nor national head to the organization," but "when occasion required the different districts acted in concert."[2] Although the Illinois Miners' Benevolent and Protective Association was formed in 1871 as an independent organization, its structure and purposes were so similar to the Miners' and Laborers' Benevolent Association that members' cards were given and accepted between them.[3] It had been possible thus far for local and state organizations to cope with their problems fairly well, but conditions were fast arising that would necessitate thorough national organization. Prices were falling and the extension of the railroads resulted in opening new fields and in making the operators of the fields competitors in common markets.

C. MINERS' NATIONAL ASSOCIATION, 1873

John Siney had been president of the Miners' and Laborers' Benevolent Association in the anthracite region and had led the men successfully in a series of strikes and

[1] Further description of the organization will be found in chap. VII, p. 203.

[2] Roy, *History of the Coal Miners*, 1903, p. 71.

[3] McBride, *op. cit.*, p. 249.

in the establishment of a system of negotiations. A convention was called by the officers of several States to meet at Youngstown, Ohio, in October, 1873. The reputation that Siney had gained in Pennsylvania made him the natural recipient of the presidency of the Miners' National Association organized at that time. The object of the association was to consolidate the mine workers in order to equalize the "contest in which a handful of men have to contend with the power of aggregated wealth."[1] To accomplish this, districts which had to strike to alleviate their conditions were to receive pecuniary and moral support, and this device was to be supplemented by legal regulation of working conditions. The districts controlled their own affairs except that they could not engage in a strike until they had exhausted peaceable means for a settlement and obtained the consent of the national president and the executive board which was made up of a representative from each State. It had become evident to the miners that local strikes did not pay and that prices and general conditions could be established only by general suspensions.

(1) *Effects of panic of 1873*

Unfortunately the panic of 1873 occurred just as the organization was getting under way. That it should have survived this disastrous industrial paralysis and increased its membership is a mark of its vitality. The national office of the organization was located in Cleveland and the national officers immediately sought friendly relations with the coal companies which had headquarters in that city. The labor leaders received no encouragement from any but Mark Hanna. As soon as he was convinced that the leaders proposed to stand by arbitration decisions and use all their influence to establish peaceful relations, he stood ready to help. In spite of various handicaps the organization grew steadily until 1875.

[1] Roy, *op. cit.*, p. 156.

(2) *Effects of individualism*

The national officers and organizers of the union had a most difficult situation on their hands to keep the local unions from striking while the market was constantly falling and entailing attendant reductions in wages. Too often the union element was in a minority in a mine, and when the non-union element struck, the unionists would go out with them and violate their contract and the constitution of their organization. The unionists who struck under such circumstances could not get strike benefits and were soon deserted by the non-unionists, who migrated to another place after they had stirred up the trouble. Siney found ex-union men in Maryland who were unwilling to organize, though their employers were willing that they should,[1] and many men in Maryland refused to enter the union because it stood for a "free turn." The "free turn" was demanded by the union to prohibit certain favored ones from getting a disproportionate number of cars, which enabled them to earn more than their fellows. The spirit of individualism was rampant in spite of the hard lessons that both capital and labor had learned. Though the operators admitted[2] that it paid them to bring in unskilled non-unionists, pay them more, break the strike, and then make the regular workmen labor at the owners' terms, a feeling of solidarity among the laborers was to come only after much suffering. The locals refused to send their monthly dues and strike payments to the national treasurer,[3] and when the national officers interfered in the settlement of a local strike they were met by insult from the local. The situation had become so intolerable that the Executive Board was called, in the fall of 1875, to consider the noncompliance of the locals with the national constitution.[4]

[1] *Miners' National Record*, vol. 1, no. 10, p. 172.
[2] *Ibid.*, vol. 1, no. 9, p. 152.
[3] *Ibid.*, vol. 2, no. 1, p. 13.
[4] *Ibid.*, vol. 1, no. 7, p. 110.

It had to treat with such cases as the following resolution: —

Resolution of Clay County Board of Ohio

WHEREAS, Communications have been received by the General Secretary, from our operators, on our present difficulties, be it therefore

Resolved, that we respectfully recommend to the National Executive that they take no further action upon our case unless advised by us, or have positive proof that we are neglecting our business or violating the general laws of the Association. Our men have implicit confidence in the ability and honesty of the National Officers, but they believe that we at home understand affairs better than they can in Cleveland — at least so far as propositions from the operators or outsiders are concerned. When we feel incompetent ourselves to meet any emergency, we will not hesitate to call on your assistance.

Under such conditions the operators refused to treat with the national organization unless its officers could hold the men to their contracts. To remedy the situation Siney proposed to have the grievances of each local submitted through the national officers to the vote of the other locals. Only on condition of a majority vote would a strike be declared legal and the local receive strike benefits. This would relieve the national officers of the responsibility and keep down the number of strikes to a point where they could be supported effectively.[1] However, the change in the constitution finally adopted divided the responsibility for the strike between the national officers and the officers of the district affected.[2]

(3) *Inauguration of arbitration*

The beginnings of arbitration were made in the middle of the seventies during the prominence of the Miners'

[1] This suggestion came from H. J. Walls, an officer of the Iron Moulders' Union.

[2] *Miners' National Record*, vol. 2, no. 1, p. 13.

National Association. In 1873, the miners of western Pennsylvania had got a bill through the state legislature regulating payment by run-of-mine and entitling the miners to station a checkweighman at the scales with the company weigher to see that the men were given full weight for their coal. The purpose of the law was thwarted by the proviso that nothing in the act should prevent operators and miners from contracting for any method of measuring and screening that the parties could agree upon.[1] This proviso, with the lack of solidarity among the miners and the ability of the "railroad" operators and "river" operators to play off their respective workmen against each other, thwarted the honest attempts made by the leaders of the miners to come to an agreement by arbitration. However, the feeling of the necessity for arbitration was penetrating the minds of men who had held tenaciously to the individualist concept of ownership and operation of their business. The first approach to successful negotiations and settlement was made in the Tuscarawas Valley of Ohio in 1874.

The operators notified the miners of that region of a reduction of twenty cents on a ton. This heavy reduction led the miners to think that the operators wished to force a fight, but the national officers sent to the operators a constitution of the Miners' National Association and called attention to its provisions for arbitration. As a result a board was formed consisting of three representatives of the miners and an equal number of operators, among whom was Mark Hanna. Judge Andrews, of Cleveland, was selected as umpire and he decreed a nineteen-cent reduction instead of twenty cents.[2] Although the miners felt that they could have secured better terms by a strike, they accepted the award and went to work.

[1] *Report of Secretary of Internal Affairs of Pennsylvania*, 1880–81, p. 302.

[2] *Report on the Statistics of Labor*, Massachusetts, 1881, p. 58; also Roy, *op. cit.*, p. 168.

The Crawford Coal Company of the same field did not belong to the Operators' Association, and its miners had not joined the union. The company locked out its men because they demanded a checkweighman. After the award of the arbitration board the company offered their miners an advance of nine cents a ton above the awarded price if the miners would recede from their demand for a checkweighman. It would seem that it might have occurred to these men that if a checkweighman was worth nine cents a ton to the operators for the purpose of getting rid of him, he would be a still more valuable functionary for them. Evidently the miners could not see so far, for they accepted the offer of the company. Thus an occasion was made for breaking the award by the union miners, who demanded the same rates.

The union miners appealed to the national officers and executive board to be absolved from the decision of the arbitration board, and the struggle was on again.[1] The miners' appeal was granted without giving the operators the hearing which they asked for, and the miners struck. After a short suspension the operators granted the nine-cent increase paid by the Crawford Company. This did not help to convince the miners of their ability to obtain either justice or the best terms from arbitration. In fact, the whole episode was rather a severe blow to the principle of arbitration and contributed largely to the decline of the union.

(4) *The organization at its height*

The Miners' National Association had reached its largest development by November, 1875. At that time it had 347 lodges with a total membership of 35,355. The extent and distribution of the union element at this time is worth noting. In Pennsylvania there were 20,840 members; in Illinois, 5122; in Ohio, 4734; in Indiana, 2135; in Mis-

[1] Roy, *op. cit.*, p. 170.

souri, 547; in Wyoming, 544; in Maryland, 431; in Iowa, 272; in Colorado, 242; in West Virginia, 178; in Tennessee, 129; in Kansas, 123; in Indian Territory, 57. In 1875 the union had total receipts of $26,699 and spent about $15,523 in aiding strikers.[1] We shall see that these men were the advance guard of one of the largest industrial unions in the world and were made up of the most heterogeneous population.

(5) *Trial of Siney and Parks*

The failure of arbitration proceedings in Ohio was closely followed by an event which did still more to break up the union. Xingo Parks, an organizer of the National Association, was sent into the Clearfield District of central Pennsylvania to organize the miners. His success in organizing the men was quickly followed by a strike. The operators rather than treat with the union imported strike-breakers, and the miners were successful in persuading a trainload of these men to leave by explaining the situation to them and paying for their transportation. The operators used this occasion to bring action under the conspiracy laws, and Siney (who had gone to the scene of the trouble), Parks, and several others were arrested and brought to trial. Roy, who knew Siney personally, says that the arrest of Siney "created a profound sensation, not only in the labor circles of the United States, but among the business and public men as well. He was the best known man in the ranks of organized labor in the country, and was universally liked and respected by all the labor organizations. His character was, however, not understood by the business men of the country, and he was hated and feared by the coal and railway companies. The newspapers in the interest of these constituencies had for years held him up before the country as a demagogue who did nothing but foment discord between the coal

[1] *Miners' National Record*, vol. 2, no. 1, p. 5.

companies and their employees." It undoubtedly created a furore quite on the order of our recent case of the dynamiters. The questions at issue were the right to picket peacefully and the maintenance of the miners' organization.

United States Senator Wallace, of Pennsylvania, was engaged by the coal companies and the Pennsylvania Railroad to assist the prosecuting attorney of Clearfield County. United States Senator Carpenter, of Wisconsin, was engaged by the miners, and Benjamin F. Butler, of Massachusetts, volunteered his services.

In 1869 a law had been enacted authorizing mechanics, journeymen, etc., to form labor organizations, but to favor some *interest* the proviso had been inserted that "the provisions of this act shall not apply to the Counties of Clearfield and Centre."[1] And the act of 1872, relieving workmen and their associations from the laws of conspiracy for refusing to work for wages or under conditions that were unsatisfactory, had provided "that nothing herein contained shall prevent the prosecution or punishment, under existing laws, of any person or persons who shall, in any way, hinder persons who desire to labor for their employers from so doing."[2] The prosecuting attorneys were thus able to apply in Clearfield County the law of conspiracy under the common law and find a technical violation of the act of 1872 against picketing. The defense rested its case on the obsoleteness of the law of conspiracy in England, the prevailing sentiment in the other States of our country which had passed statutes permitting organization, and the fact that capital combined to do the very things for which labor was indicted. The judge said that "any agreement, combination, or confederation to increase the price of any vendible commodity, whether labor, mechandise, or anything else, [was] indictable."[3] Yet it was common knowledge that the coal com-

[1] *Laws of Pennsylvania*, 1869, p. 1260. [2] *Ibid.*, 1872, p. 1175.
[3] *Miners' National Record*, vol. 1, no. 11, p. 188.

panies combined to limit output and fix prices. With this the miners had no quarrel, but insisted that they also should be allowed to organize to meet the situation. One of the operators testified that seven companies had combined to prosecute the men, and the miners pertinently pointed out that they "had struck and conspired to prevent other men from going to work at prices lower than the strikers were willing to accept for their labor. The operators refused the price demanded and combined to raise means to keep labor down and send the leaders to the penitentiary. Which is the more heinous offense?"[1]

Siney was acquitted. Parks was sentenced to one year in prison, one thousand five hundred dollars costs, and one dollar fine. The president and secretary of the local union were sentenced to one year because they were officers, and, although forty miles away at the time of the technical violation of law, it was held not necessary for them to have been present to be guilty of a conspiracy. The other men were sentenced to sixty days. The jury refused to obey the mandate of the court and convict Siney, and afterwards signed a petition for the release of the other men.[2]

The event so stirred the people in general that the following year, 1876, the law of 1872 was amended so that the proviso "should be so construed that the use of lawful or peaceful means, having for their object a lawful purpose, shall not be regarded as 'in any way hindering' persons who desire to labor; and that the use of force, threat, or menace of harm to persons or property shall alone be regarded as in any way hindering persons who desire to labor."[3] However, the miners' leaders continued to be punished under the law of conspiracy in the eighties.[4]

[1] *Miners' National Record*, vol. 1, no. 12, p. 198.
[2] *Ibid.*, vol. 1, p. 153.
[3] *Laws of Pennsylvania*, 1876, p. 45.
[4] *Report of Secretary of Internal Affairs of Pennsylvania*, 1880–81, p. 380, and 1882–83, p. 163.

(6) *Decline of the organization*

The national officers had from the beginning advocated a Fabian policy during a period of falling prices and glutted markets and advised the men to make the best terms possible with their employers. This condition extended over so many years after the panic of 1873 that the miners lost all patience and in the autumn of 1875 and spring of 1876 engaged in a series of disastrous strikes which left the organization in a very weak state. In the summer of 1876 the national officers were forced to give up their headquarters, and settle debts of several hundred dollars out of their own pockets because of lack of funds. Thus the organization came to an end.

B. Events leading to the Joint Conference of 1885

a. arbitration in ohio

Although the men neglected to support an organization of national compass, yet immediately after its break-up the industry entered upon a period of development and adjustment that was to lead to the joint agreement in 1885. The Knights of Labor were becoming prominent and absorbed many of the local miners' organizations, but there was still enough solidarity of feeling to attempt the adjustment of local differences. We shall concern ourselves at this point with events and conditions which indicate that new machinery for industrial adjustment was necessary.

In 1877, in another attempt made at arbitration in the Tuscarawas Valley of Ohio, the miners made the fruitful suggestion that in the award to be made there should be a standing committee of three miners and three operators to adjust all differences which might arise under the award.[1]

[1] *Report on the Statistics of Labor*, Massachusetts, 1881, p. 61.

This is in accordance with the development of true conciliation in industry, for there must be two distinct processes — the making of a wage contract and the administrative machinery for working out its details. The award was to be the minimum price for mining, and the miners suggested that the standing committee have access to the companies' books to ascertain the selling price of coal.[1] But this was a step too advanced for the operators, who disagreed technically on the selection of the proper months which should determine the selling price of coal.

B. ARBITRATION IN WESTERN PENNSYLVANIA

Interesting arbitration proceedings took place in western Pennsylvania in the region of Pittsburg in 1879. The "river" miners on the Monongahela and Youghiogheny Rivers and the "railroad" miners on the Baltimore and Ohio and the Pennsylvania Railroads had been organized into the Miners' Association of Western Pennsylvania in 1879. With the beginning of prosperity in 1879 the miners were quick to seek improvement in wages. At their convention in July they decided to try arbitration and appointed a committee to confer with the River Coal Exchange. As an organization the Exchange refused to enter an arbitration arrangement, but a few of its members along with a number of "railroad" operators were induced by Mr. Joseph D. Weeks, a disinterested authority on arbitration, to form a board and a set of rules.[2]

Mr. Weeks had made a study of conciliation and arbitration boards in England, and the rules drawn up followed English models. Fundamentally the board was to adjust wage questions, settle disputes that arose over working conditions, and by conciliatory means prevent disputes. It consisted of nine members from each side, who were to appoint a referee in case of a tie vote. A smaller conference

[1] *Report on Statistics of Labor*, Massachusetts, 1881, p. 61.

[2] *Report of Secretary of Internal Affairs of Pennsylvania*, 1878–79, p. 144.

committee of four was to give a preliminary hearing on matters to come before the board. In the general board only an equal number from each side could vote if either side were not fully represented. A decision of the majority was to be final. Pending a settlement, work was to go on and neither operators nor miners were to interfere with a man because he was union or non-union. The expenses of the board were to be borne equally by both parties, and besides the stated meetings of the board it was to be assembled upon a requisition of the president signed by five members stating the nature of the business. No subject could be brought up for discussion before the conference committee or the board unless five days' notice was given. This should be contrasted with the freedom of a truly conciliatory board where the only limiting provisions are the courtesies due under ordinary parliamentary rules.

The parties came to a preliminary agreement, but the chief point at issue was temporarily deferred. The miners wished to base a scale on the price paid in the iron mills for boiling iron, and held that since most of the coal they mined was used in the iron industry and the price for boiling was fixed, they would always know what the basis was. The operators pointed out that not one fourth of the coal they mined was used in the iron industry and that it was illogical to base the scale on anything but the price obtained in the yard of the Pennsylvania Railroad at Pittsburg. The operators yielded to the miners temporarily, but the iron industry was experiencing a rapid expansion and the price for boiling reached $7.25 per ton, which would have given the miners $5.20 per hundred bushels.[1] This was so out of proportion to what the miners had ever received that it seemed to the "public as extremely excessive and to the miners as somewhat ludicrous."[2] A "railroad"

[1] *Report of Secretary of Internal Affairs of Pennsylvania*, 1878–79, p. 147.

[2] *Ibid.*, 1880–81, p. 377 — the words of miners' leader in report to State Bureau.

miners' convention met and shaved the scale down so that the miners would get $3.62\frac{1}{2}$ per hundred bushels under similar conditions. But even this was rejected by the Railroad Coal Exchange, and the miners withdrew their demand for a scale and asked for a flat rate of four cents per bushel. In the mean time the arbitration board had failed to agree on a scale and on the selection of an arbiter because they could not get the man they wanted. The Coal Exchange stuck to its original offer of $3\frac{1}{2}$ cents per bushel and a break in the ranks of the miners forced acceptance. The failure of the board was undoubtedly due to the attitude both parties had taken toward arbitration, and to the inferiority of arbitration as compared with conciliation.

C. INTERSTATE CONVENTION OF 1880

After the demise of the Miners' National Association in 1876, the miners seemed content with local organizations and with entering upon local struggles. The need of a general strike to meet changing conditions in a more broadly competitive market was not appreciated. One of the first signs we have that the recognition of this was to come is seen in the Interstate Convention of 1880.

In the spring of 1879 the miners on the Monongahela and Youghiogheny Rivers had struck for an advance in wages.[1] They obtained their increase through accepting the advice to continue the strike for a couple of weeks longer. This advice was given by a young lawyer, formerly a miner, who observed that the operators "were daily in receipt of orders for coal at constantly increasing prices." He was elected president of the local miners' organization and through the autocratic power vested in him was able to wring other concessions from the operators. He soon gained a reputation for his excellent management of the local union, and the effect of the union's reputation for

[1] Roy, *op. cit.*, p. 190.

unanimity of action was not lost on the miners in other localities.[1]

In the mean time the miners in the Tuscarawas and Hocking Valleys of Ohio took advantage of rising prices to demand increases in wages and obtained them. But a dispute arose in the Tuscarawas Valley over the weighing and screening of coal. The operators of this field agreed to abandon the use of screens if their competitors in the neighboring fields could be induced to do so.[2] An interstate conference of miners from Ohio and Pennsylvania met at Pittsburg on March 17, 1880, and demanded payment by weight for all coal mined, receipt of their wages fortnightly, abolition of the company stores, and an eight-hour day.[3] If these demands were not granted by August 1, a general strike was planned to force concessions. The Hocking Valley and Jackson County miners of Ohio refused to enter into a struggle over payment by weight and the abolition of the screen system, but the Tuscarawas Valley men held out for nine months and were finally forced to surrender by the importation of negroes under military protection.[4] At the same time the Pennsylvania miners were trying to the best of their ability to secure some uniformity, by local strikes where individual operators were obdurate.[5] These experiences were demonstrating the necessity for solidarity and concerted action.

D. OHIO MINERS' AMALGAMATED ASSOCIATION

During the struggle over the screen question John McBride and other prominent miners had been active in agitating for the organization of a state union for Ohio. As the result of the miners' failure to win their strike, McBride was blacklisted and he found it impossible to obtain work in the

[1] McBride, *op. cit.*, p. 252.
[2] Roy, *op. cit.*, p. 192.
[3] McBride, *op. cit.*, p. 253.
[4] Roy, *op. cit.*, p. 194; also Warne, *op. cit.*, p. 383.
[5] *Report of Secretary of Internal Affairs of Pennsylvania*, 1880–81, p. 379.

mines.[1] But he obtained other employment and continued to agitate for a state union. By April, 1882, he succeeded in getting a representative convention together at Columbus and the Ohio Miners' Amalgamated Association was formed. The most extended source of information we have on the organization [2] leaves us to infer that the State was divided into district and local divisions with corresponding organizations. No more power was given the state officers than was actually necessary to bring about concerted action in the various fields.[3] It was not long before the operators as well as the miners recognized the desirability of some organization which should keep track of conditions over the State at large and prevent one district from securing advantages over another by cutting wages.[4] The chief importance of the organization lies in the fact that it is an expression of the tendency to extend the principle of solidarity over State-wide areas in contrast with localities and districts. The organization also furnished some moving spirits who were far-seeing enough to recognize that the principle of coöperation must be national in scope.

E. ARBITRATION UNDER STATE LAWS PROVIDING FOR TRIBUNALS

(1) *Arbitration in western Pennsylvania*

The following year in western Pennsylvania successful arbitration took place under the Trade Tribunal Act of 1883. This act provided that a license or authority for establishing a tribunal should be issued by the presiding Judge of the Court of Common Pleas. The license should be denied unless the petition were signed by fifty workmen and five firms within the county where the petitioners

[1] Roy, *op. cit.*, p. 194.
[2] *Report of Ohio Bureau of Labor Statistics*, 1885, p. 25.
[3] *Ibid.*, p. 26. [4] *Ibid.*, p. 25.

resided. The tribunal was to exist for one year and consider further disputes that arose within that time. Vacancies were to be filled by judges from lists submitted by the parties, and an umpire was to be selected by mutual choice, who should act only when the parties, after three meetings held for discussion, had failed to reach an agreement. The award was to be final on all matter submitted, but it was to be binding only on condition that both parties acquiesced. If agreed to and made a part of a court record the court could grant judgment for its fulfillment. The tribunal fixed its own rules of procedure and the chairman was vested with a power of procuring witnesses, preserving order, and obtaining proofs.[1]

In May, 1883, the "railroad" operators sought to force a reduction of a half cent a bushel on their miners. This would be a matter of thirteen cents a ton of two thousand pounds. The local miners' organization, after several unsuccessful conferences with the operators, decided to arbitrate under the Trade Tribunal Act. On the organization of the board it was decided that the miners should resume work at once, with a checkweighman to see that they received proper weight, and at a price to be determined by the tribunal. This price should apply from the time they began work. A committee of four was appointed to visit the Lake ports to obtain the selling price of Pittsburg coal and to find out the freight rates on the same. They were to obtain also the prices of competitive coal and its cost of transportation. Another committee of four was to visit Pittsburg and examine the books of the operators to obtain their selling prices, prices paid for mining, and costs of mining other than wage costs. After this investigation the parties were "obliged to confess that the information they obtained but served to strengthen [their] feeling of partisanship," and they had to appeal to an arbitrator.

[1] *Report of Secretary of Internal Affairs of Pennsylvania*, 1882–83, p. 160.

The umpire split the difference and the parties accepted the award.[1] In December of the same year a promising case of arbitration regarding a differential between the Fourth and Second Pools of the Monongahela River was effected. Later, however, the award was broken by several of the operators in the Fourth Pool positively refusing to pay the back wages due the men or to abide by the terms in general.[2] In another case at this time in Allegheny County both parties abode faithfully by a scale of wages and the selling price of coal fixed by Mr. Joseph D. Weeks.

(2) *Hocking Valley strike, 1884*

In 1884, the Ohio Miners' Amalgamated Association crossed swords with the Hocking Valley coal syndicate while consolidation of mines by the Ohio Coal Exchange and the Hocking Valley Coal and Iron Company was going on. The difference in the thickness of the seams in the northern part (ten feet) and in the southern part (six feet) of the valley resulted in too many laborers being in the thick seam and causing others to clamor for a chance to work it. The competition of workmen enabled the coal syndicate to force reductions from seventy cents per ton to sixty cents and then to fifty cents. It was the policy of the operators thus to hold the market. The average monthly wage in one of the Ohio Coal Exchange mines ran — March, $27.53; April, $18.55; May, $19.95; June, $12.83. In one of the Hocking Valley Coal and Iron Company mines the average monthly wage from January to June was $17.84.[3] The nearest approach we have to statistics bearing on the industry of the State in general is from fifty-nine reports of representative miners' earnings from various parts of the State. The average yearly wage was $239.17. We have no record of the average daily wage or the number of days worked. The fluctuation in average

[1] *Report of Secretary of Internal Affairs of Pennsylvania*, 1882–83, p. 142.
[2] *Ibid.*, 1884, p. 73.
[3] Saliers, *The Coal Miner*, p. 13.

yearly wage arrived at under similar circumstances in the reports of the State Bureau of Statistics, is shown thus — 1879, $314; 1881, $397.54; 1883, $443.14; 1885, $239.17; 1886, $239.99.[1]

The Ohio coal and iron products were experiencing severe competition from Pennsylvania and Alabama, and the Ohio blast furnaces were tenaciously holding on to the use of the native ores from the coal measures.[2] Besides, Ohio coal met severe competition in the Chicago market from the Pennsylvania bituminous and anthracite coals.

The trouble in 1884 had been settled by a compromise, and by the latter part of October, 1885, a general strike over the State was imminent when the operators refused to grant an advance from fifty cents to sixty cents per ton. The operators finally accepted an offer to arbitrate. Ohio, in February, 1885, passed an arbitration law similar to Pennsylvania's, but the miners and operators organized a board without the aid of the law, examined books, and heard evidence. They failed to agree and resorted to an arbitrator. The award was against the operators and they were forced to pay an advance of ten cents per ton.[3]

F. CHANGES IN THE COAL INDUSTRY

(1) *Enlargement of the market*

These troubles in Ohio and Pennsylvania were among many of similar nature in other States. An evolution had been taking place in competitive markets which was bound to force both parties to cease looking upon their business and working conditions with a local or provincial attitude and to compel them to expand their concepts to national boundaries and conditions. The coal from eastern West

[1] *Reports of Ohio Bureau of Labor Statistics*, for the above years.
[2] Saliers, *op. cit.*, p. 13.
[3] *Report of Ohio Bureau of Labor Statistics*, 1885, p. 252.

Virginia and Maryland fields and the central Pennsylvania and anthracite regions went to seaboard cities, while coal from western Pennsylvania, western West Virginia, Ohio, Indiana, and Illinois went to the Lake ports and the Northwestern States.[1] The coal fields located on the Ohio River and its tributaries sent their product to Cincinnati, Louisville, and points on the Mississippi. But the railroad development was fast breaking down the influence of the physiographical features which had widely separated markets and was making sectional markets responsive to coal supply from other fields. This fact with the rapid increase of new coal fields made overproduction inevitable in the race to pay dividends.

(2) *Working conditions*

Along with extreme competition, overproduction, and reduction of wages went certain working conditions that must be understood to appreciate the welding force which was driving the men to united action to secure the regulation or suppression of these conditions. In most cases the conditions were the direct outgrowth of competition and overproduction, but the men recognized that they could be utilized to bring about uniformity and set a limit to cutthroat competition. If these basic conditions of labor could be established and the standard of living raised, the operator could carry on his competition so long as he did not attempt to make his men suffer for it.

Among the more obvious grievances which caused friction with even the most ignorant of men, because of its audacious robbery, was the short weighing that went on when the miner had no checkweighman at the scales in his employ to check up the company man. Not until 1902, after the award of the Anthracite Commission, do we have definite figures of the amount of saving this meant to the miner.[2] Closely connected with this matter was the abuse

[1] Warne, *op. cit.*, p. 384.

[2] See *post*, p. 253.

of the "dockage" system. This was an institution, legitimate in itself, for making the miner careful about loading impurities, but easily subjected to abuse when no checkweighman was at hand. The question of mine-run payment *versus* compensation for the amount of coal that passed over a screen of a certain size, was hotly disputed. The miner pointed out that the operator sold the small sizes which were left as screenings and could see no reason for non-payment. The operator said that the screen system was to encourage careful mining, and justified the method by paying a somewhat higher price for screened coal, supposed to compensate for the small coal that fell through the screen. The miner found that the screen system was subject to many abuses; for example — larger openings than agreed upon, non-repair when the screens had spread and allowed an extra large percentage of coal to pass through, and the placing of spreaders and other obstructions on the screens which would break the coal.[1] This abuse was further aggravated as the demand for small sizes increased. The only way out of this situation the miner saw was to demand run-of-mine payment for his coal (payment for all coal mined), and, since the operator refused to grant it, the workmen early sought legislation which should do away with these abuses and establish standard weights and measures and legalize checkweighmen.[2] But the legislation obtained along this line was generally thwarted by the proviso that the operator and miner might contract between themselves for any method of payment, and usually the miner had to accept the employer's terms or starve. Besides, to obtain redress for non-payment for all clean coal a suit for damages was necessary. The mine-run question is still a live one.

[1] Legislative Record of Pennsylvania, June 7, 1897, — quoted by George, *Quarterly Journal of Economics*, vol. 12, p. 196.

[2] *Report of Secretary of Internal Affairs of Pennsylvania*, 1882-83, p. 172*a*.

Another practice the injustice of which the miner was quick to feel was the non-payment for "deadwork." It was well named, for the miner, without pay, had to bail water from his room, post the roof, lay track, cut clay veins and spars, and move all obstructions which hindered his getting at the coal. In some cases a little was added to the price per ton or per bushel, or a miner was paid a certain amount for his time while doing such work. In most cases he had the alternative of performing what he was told to do or losing his job. The amount to be paid for such work is still a controverted question when making wage scales.

The company store was an institution of great service to the miner in the early days in isolated sections. But with the growth of a mining camp into a town its real function was *nil*, unless it could give as cheap and good service as the town stores. In too many cases the ownership of property about the mines enabled the operators to refuse to allow competing stores. Where economic growth was too powerful for them to control in this way, the operators could still resort to favoritism in employment and conditions of work towards those men who patronized the company store and quietly dismiss those who did not. In many cases the operator depended on the store profits to enable him to undersell his competitor who did not own stores. This element was such a strong factor in a uniformity scheme in the Pittsburg district, as late as 1895, that the operators who did not have company stores were given a differential of five cents on a ton.[1] The existence of the store encourages the operator to employ more men than are really needed for the sake of their trade at the store. This limits the earnings of the miner

[1] *Annals of the American Academy of Political and Social Science*, vol. 7, p. 164. A twenty cents differential was given to operators who had a limit to the weight of the car, allowed a checkweighman, used the regulation screen, and paid in nothing but cash.

because he obtains less work. The operator thus gets a "rake-off" from all the miner's consuming ability as well as his productive capacity. But still more important, the surplus labor kept wages down to a subsistence level. The extortionate prices and the enforced use of scrip soon brought state legislation[1] which it was hoped would remedy the evils. But as the Ohio Commission of Labor Statistics points out, the laws were ineffective because no provision was made to enforce them,[2] and it took united action on the part of the workmen to make them effective. With the growth of concentration of capital and strong unionism in the mining industry, the large companies, at least, have done away for the most part with the semblance of the store system, although it hangs on in places in the form of stores in which the mining corporation may hold stock and for which it deducts store bills from the miner's wages. Another subtle form is the ownership of stores by relatives of officials or mine bosses and discrimination in favor of men who will trade at their stores.

In the eighties semimonthly pay was becoming a strong demand. The company store kept the men constantly in debt and encouraged the improvident to spend their last penny. In fact, the combined system of company store and deferred payment is nothing but peonage.

Analogous to the store are the company houses. Besides yielding exceptionally good returns on the investment, the operator was in a position to evict the miner on short notice in case of a strike, and this power was used when the miners were particularly obdurate.

The seasonal demand for coal, the surplus number of mines in operation, too many men in the industry, and the willingness of the miner to share work with his fellow unionist in times of depression, have been the elements that have given the miner from one hundred and fifty to

[1] *Report of Ohio Bureau of Labor Statistics*, 1878, p. 115.
[2] *Ibid.*, p. 116.

a little over two hundred working days in a year. This situation and the adverse conditions of work prompted the miner to demand and fight for the eight-hour day as a means of lessening overproduction, distributing the work more evenly over the year, and giving him more time to spend in the daylight and for self-improvement.

3. THE STRUGGLE FOR A JOINT AGREEMENT FROM 1885 TO 1898

A. The National Federation of Miners and Mine Laborers

The economic pressure of the conditions described, the relative homogeneity of population,[1] and the rise in intelligence of the mass of workers laid a basis for the system of joint interstate agreements begun in 1885. The miners' organizations in the various States and districts were learning the futility of attempting to cope with the economic pressure without solidarity of organization and purpose. The leaders from the various States came together in convention at Indianapolis, September, 1885, and formed a national organization known as the "National Federation of Miners and Mine Laborers." The preamble to the constitution recited the evils growing out of excessive competition and overproduction and recalled the adverse working conditions under which the craft was laboring. The belief was expressed that "in a federation of all lodges and branches of miners' unions lies our hope." The chief purposes of the organization were to spread intelligence and promote the social and industrial welfare of the workers by the use of arbitration and legal enactment.[2]

The executive and legislative powers of the organization were put in the hands of five representatives at large,

[1] That is, they had a common language and a similar standard of living.
[2] McBride, *op. cit.*, p. 255.

and one member from each of the coal-producing States with one additional member from the anthracite field. The five members at large, a secretary, and a treasurer were charged with the administrative functions. A *per capita* tax on each member furnished the funds.[1] It was truly a federation as compared with the organization of the United Mine Workers, which, we shall see, has developed into a strong industrial union and democracy.[2]

A. SUGGESTION OF THE INTERSTATE JOINT CONFERENCE

At this federal convention the suggestion was made by Daniel McLaughlin, chairman, that the miners seek to bring about a joint interstate convention of miners and operators to frame a scale of wages, agree upon uniform working conditions, adjust "market and mining prices in such a way as to avoid strikes and lockouts, and give to each party an increased profit from the sale of coal." Only one operator, W. P. Rend, responded to the call for the convention at Chicago, October, 1885. Mr. Rend, in the Hocking Valley strike and on other occasions, had shown himself a friend of the miners when he felt that they were in the right, and he encouraged the miners to issue another call. A few Chicago operators responded to the second call and with the miners signed another invitation for a meeting at Pittsburg, December, 1885. Emphasis was put upon the belief that the movement would inaugurate a new era for the settlement of industrial questions and that friendly conferences would accomplish what force had failed to bring about in the past.[3]

B. Interstate Joint Conference of 1886

Although a larger number attended the Pittsburg meeting, it was not representative of the industry, and it drew

[1] Roy, *op. cit.*, p. 244. [2] See. chap. III. [3] Roy, *op. cit.*, p. 252.

up a possible scale of wages and issued another call for a convention at Columbus in February, 1886. The February meeting was well attended, and the novel experiment met with strong advocates and with determined opponents among the operators. At the same time a spirit of fairness pervaded the proceedings and the debate on the wage scale. Each State was allowed eight votes as a basis of representation — four for the operators and four for the miners. As only Ohio, Indiana, Illinois, and Pennsylvania were represented by the operators, the miners from Maryland and West Virginia were not allowed to vote.

The Pittsburg scale was adopted for one year, lapsing April 30, 1887, and established differentials among the various coal fields varying from 56½ cents per ton in the Mount Olive and Staunton districts to 95 cents per ton at Wilmington, Illinois.[1] A national board of arbitration, consisting of nine operators and an equal number of miners, was established to settle disputes that might arise between States, and similar boards were to care for state matters. The national board met several times during the year and tried to come to some agreement on the eight-hour day question, but it, along with other matters that needed general sanction to make them effective, was wisely left for the convention.

C. Withdrawal of Illinois

The meeting of the convention of 1887 was an occasion for felicitations on the success of the movement and the good feeling it had engendered. But hardly had the echoes of praise died away before the participants discovered forces at work which were to disrupt the movement. The operators from southern Illinois refused from the beginning to enter the agreement, and the operators from northern Illinois withdrew in 1888. The thicker seams of coal, the greater opportunity to use mining machinery, and the

[1] McBride, *op. cit.*, p. 256.

readjustment of freight rates enabled southern Illinois to put its coal in the Chicago markets at a price lower than could northern Illinois.[1] Both sections of the State depended on coal contracts with the railroads for their chief business, and it was charged in the convention of 1888 that there was a conspiracy of the Northwestern railroads and the Illinois operators to shut out the Ohio and Pennsylvania coal from the Northwestern markets.[2] It has been pointed out, by one who knew the situation at first hand,[3] that the ownership of Illinois mines by railroads and their officials was the real reason why Illinois was not anxious to stay in an interstate uniformity agreement. As long as the ownership of the bituminous field was not consolidated, it was to their interest to be free to deduct from the earnings of their coal mines to pay the railroad, or to put those operators not in the combine at a disadvantage by high freight rates. We shall find this situation and the working out of this policy in the bituminous fields of Pennsylvania, West Virginia, and Maryland (and in the anthracite field),[4] and there is no reason to think the same influences were not at work in Illinois. In fact the same questions of rebating and discrimination, supplying of cars and the use of "individual cars," have come before the Interstate Commerce Commission from Illinois as from Pennsylvania and the other States.[5] Furthermore, "Illinois never went into the movement heartily, notwithstanding the *enthusiasm of certain operators for it.*"[6] There were also disrupting influences among the Ohio operators.[7]

D. Withdrawal of Indiana

The refusal of Illinois to be governed by the agreement put Indiana at a disadvantage, and she withdrew in 1889.

[1] *Report of Special Commission on Northern Illinois Coal Strike*, 1889, p. 9.
[2] *Ibid.*, p. 11.
[3] Lloyd, *A Strike of Millionaires*, p. 205.
[4] See p. 79 *ff.*
[5] *Reports of Interstate Commerce Commission.*
[6] *Report of Special Commission, op. cit.*, p. 10 (italics mine).
[7] *Report of Ohio Bureau of Labor Statistics*, 1888, p. 208.

The Ohio and Pennsylvania operators were wroth and went so far as to propose to throw one sixth of their coal into the Northwestern markets at reduced prices until Illinois was forced to come into the agreement. The scales of 1886 and 1887 had set mining prices for Illinois which were contingent on the ability of the miners to force the guerrilla operators into the agreement. The strikes of the miners were without avail. The withdrawal of Indiana and the failure of Ohio and Pennsylvania to come to an agreement brought the joint conference to an end in 1889.

E. The Problem of the Joint Conference

The parties to the agreement did not fully comprehend the magnitude of the problem before them. They must first establish an equality in common markets which would take account of nearness to market, the ease with which coal could be mined, quality of the coal, cost of transportation, the rate of mining and "deadwork," and the many other conditions that enter into the production of coal. In the second place, they had included in the movement only the central States of Illinois, Indiana, Ohio, western Pennsylvania, and one district of West Virginia. To establish differentials between the coal from Michigan, Iowa, and the Southwestern field of Kansas, Missouri, Oklahoma, Texas, and Arkansas, was one of their first problems. But before the operators became ready to attack the problem with earnestness, they were to experiment for a decade longer with cutthroat competition and overproduction.

F. The Formation of the United Mine Workers

During the life of the agreement the miners had been passing through a period of discord and evolution in trade-union philosophy that was to lay a basis for solid industrial unionism. In the same year (1885) that the National Federation of Miners was formed, the Knights of Labor,

which had locals scattered over the mining regions, organized a National District Assembly of Miners further to extend their principles of general solidarity among workmen in all industries. The Knights had been a strong educational influence among workmen, and the adherents of the organization determined not to have it crowded out. Each organization sought to gain supremacy, and the divided counsel and quarrels in every district worked to the advantage of the operators.

A threat on the part of the Knights of Labor that, unless they were put on an equal basis with the Federation in the adjustment of disputes with the operators, they would not be under obligation to abide by the contracts, brought the Federation to a compromise. An attempt at consolidation was made in December, 1887, but the Knights refused to sink their identity in another organization, and the only results that came from the meeting were a reorganization of the Federation and the changing of its name to the National Progressive Union.[1] By the latter part of 1889, the organization had had enough of war and recognized that only by unity could it cope with its problems. A plan for amalgamating the two organizations was submitted to all the locals and a call issued for a national convention at Columbus, Ohio, January, 1890. At this convention, the two organizations, the National Progressive Union and the National District Assembly No. 135 of the Knights of Labor, united under the name of the United Mine Workers of America with provisions that allowed each organization to retain its essential features, hold open or secret meetings, and permit the general administration to be in the hands of the national officers.[2] The organization began its career with a membership of about 20,000 out of a body of 255,244 miners and laborers.[3] After pointing out the significance of the miner's func-

[1] Roy, *op. cit.*, p. 270. Reorganization consisted in having a president instead of an executive secretary as administrative head.

[2] *Ibid.*, p. 274.

[3] *United States Census Report*, 1890.

RUSSELL SAGE COLLEGE LIBR

tion in the production of coal for modern industrial life, the organization announced its purpose to secure adequate earnings, payment of wages in lawful money, an eight-hour day, laws providing for checkweighmen, safety appliances, equipment for ventilation, and regulations which would do away with the mine guard system. The miners felt that their children should not be compelled to go to work until they were fourteen and recognized that education must stand as their chief emancipating factor. Although they expected considerable from legal enactment, they pointed to the lack of enforcement of existing laws as one of their chief handicaps. Furthermore, conciliation and arbitration were recognized as among their most powerful instruments for obtaining betterment and for establishing relationships which no amount of legislation could bring about.

The national union was given jurisdiction over all its affiliated bodies and the national executive officers were given powers commensurate with such jurisdiction. The president, vice-president, and secretary-treasurer and four other members made up the national executive board and were elected by the annual national convention. The president with the consent of the executive board was empowered to make appointments for vacant offices and suspend or remove national officers for insubordination. Organizers and other workers needed by the union received their appointments through the same source. The executive board, besides acting as a national board of arbitration and conciliation, also had full power to direct the workings of the union when the national convention was not in session. The national convention was the power of last resort and was made up of representatives from the locals, who were given one vote for each one hundred members or majority fraction thereof.[1]

[1] Reprint of Constitution in the *Report of United Mine Workers' Convention*, 1891, p. 67.

Comparison of English-speaking and Southern European Labor in the Coal Industry [1]

Year.	Workers.	Pennsylvania.	Ohio.	Indiana.	Illinois.	West Virginia.
1870 [2]	Total workers in industry . .	41,997	12,501	1,109	6,954	1,525
	South Europe .	121	50	2	43	4
1880 [2]	Total workers in industry . .	103,917	16,331	4,469	16,301	4,497
	Other countries [3]	2,037	356	100	604	25
1890	Total anthracite	124,203	–	–	–	–
	Slav and Italian	31,202 [6]	–	–	–	–
	Total bituminous	53,712	19,591	6,532	24,323	9,952
	Slav and Italian	26,806 [6]	2,509 [6]	87 [6]	6,095 [6]	151 [6]
1901	Total anthracite	141,780 [4]	–	–	–	–
	Slav and Italian	67,118 [6]	–	–	–	–
	Total bituminous	111,229 [4]	25,963	10,593	46,005	23,914
	Slav and Italian [5]	86,855 [6]	8,243 [6]	378 [6]	14,249 [6]	1,792 [6]

[1] *U.S. Census Reports.*

[2] The reports of 1870 and 1880 give figures of the number of nationalities employed in each industry in each State, but the other reports do not.

[3] Other than English-speaking peoples.

[4] These figures are from State Reports. The U.S. Census gives only the *average* number employed.

[5] Includes Roumanians.

[6] These figures include the total Slavic and Italian population engaged in *all* industries in the *principal* coal counties of the above States. The number of *principal* coal counties in each State is as follows: Illinois, 23; Indiana, 8; Ohio, 14; Pennsylvania, anthracite, 6; bituminous, 16; West Virginia, 7. The nationalities selected include Russians, Hungarians, Bohemians, Poles, and Italians in the case of every State except West Virginia where the Bohemians and Poles are omitted.

The revenue for the support of the national organization was derived from a *per capita* tax of twenty cents per month. Fifteen cents of this amount was set apart as a defense fund to be used to support men on strike. Such support was paid on condition that the strike took place after investigation by the district and national officers. In case the national officers failed within ten days to render a decision based on the report of the district officers of conditions with which the men were dissatisfied, the district officers could call a strike. During the strike the men received $3.50 per week, and after a strike had been au-

thorized under the above provisions the national officers could not declare a strike off "except with the consent of a majority of the members involved."[1] The secretary-treasurer could not pay out sums for the support of strikes without the consent of the national executive board which held the local receiving committee responsible for such funds.

We have here the nucleus for the elaborate provisions connected with the present organization of the miners' union. These provisions will be considered in chapter III to show the development of the organization and to give the reader a comprehensive understanding of the real forces which meet in the Interstate Joint Conference in order to bargain for mine labor.

G. The Absorption of the Immigrant

It was indeed fortunate for the miners that the organizations ceased their warfare and sought to build up unity. During the decade of the nineties the central bituminous fields were subjected, to a less extent, to the same influx of a heterogeneous population that had taken place in the anthracite regions during the eighties and continued into the nineties. A glance at the table on page 36 will show that in Illinois, Indiana, and Ohio, this influx was of an extent that could be controlled and absorbed while allowing opportunity for the English-speaking peoples to attain some degree of solidarity and invent a system of adjusting differences. We shall see that this heterogeneity in the anthracite regions during the eighties and nineties was one of the chief factors that destroyed the beginnings of organization for conciliation and prevented their rise until pressing economic conditions should force nationalities and races to rise above their prejudices and customs and unite for their common welfare.

Although the censuses of 1890 and 1900 do not give

[1] *Report of United Mine Workers' Convention*, 1891, p. 68.

the number of each nationality in each industry, yet the total population of the Slavic and Italian nationalities in the coal counties stands there as an asset for the operators to draw upon to thwart combination among the workers. As will be seen from the table, the figures for the mining population include all the coal counties, while the Slavic and Italian population constitute the total of the nationalities in all industries in the *principal* coal counties. These offset one another somewhat in making a comparison of the relative homogeneity or heterogeneity in the coal industry as between different years and different States. Besides, the nature of the country in the coal counties of Illinois, Indiana, and Ohio permits employment in other industries to a greater extent than in the anthracite counties of Pennsylvania. The estimate of the recent Immigration Commission is that seventy-five per cent of the miners in Illinois, Indiana, and Ohio are of English-speaking stock.[1]

In addition to a glutted and heterogeneous labor market, we may point out the estimate made that with the mines continually employed enough mines were in operation in 1890 to have produced 40,000,000 tons more than were mined.[2] Moreover, during 1891, 1892, and 1893 the number of mines increased and a larger number of men were enrolled in the industry. Under such circumstances we can better appreciate the efforts made by the United Mine Workers to reëstablish the interstate agreement and improve conditions of labor.

H. Efforts to revive the Joint Conference

In 1891 a committee of miners met a committee of operators from Ohio and Pennsylvania and endeavored to draw up a scale and introduce the eight-hour day. The failure to accomplish this was the signal for local strikes all over

[1] *Report of Immigration Commission*, vol. 1, 534.

[2] Warne, *op. cit.*, p. 388.

the coal regions. Among these was a strike in the Connellsville coke region similar to that of 1887 when the operators were given their first real intimation of the nature of Slavic peoples and their ability to fight when pressed far enough.[1] Their tenacity, the violence with which they met eviction from the company houses, and their destruction of property were in great contrast to the tameness with which the English-speaking peoples met similar conditions and manifested a respect for law and order.

In the same year the "United Mine Workers' Journal" was established and began its educational work for unity. The news and the principles of the organization were printed in several languages. The full import of such a propaganda became apparent when the anthracite strikes of 1900 and 1902 brought about the welding of many nationalities.

A. THE "SUSPENSION" OF 1894

Again in 1892 the miners made an attempt to get an interstate convention, but were successful only in bringing about state meetings which somewhat relieved the chaotic competition. In the following year the general industrial depression forced a series of reductions in wages and the number of working days considerably below two hundred. In 1894 the union resolved to resort to a series of general suspensions to relieve the market, bring up prices, and ultimately, wages.[2] The command of the national officers to suspend work (April 21) was obeyed by 125,000 men, although the organization had only 13,000 paid-up members.[3] In fact, the conditions of the previous year were so hard that many were excused from paying dues. What had been planned as a series of two-weeks suspensions developed into a general strike of eight weeks.

Meanwhile forces were operating which brought about

[1] *Report of Secretary of Internal Affairs of Pennsylvania*, 1887, pp. 2–17.
[2] Roy, *op. cit.*, p. 325.
[3] Warne, *op. cit.*, p. 390.

in both parties a readiness to come to an agreement. Anthracite coal and soft coal from non-union districts of West Virginia were fast supplying Western markets, and when the superior West Virginia coal once found an entrance it was hard to supplant it. The suffering of the miners from want of necessities was putting them in a mood to fight such inexorable forces with something other than passivity, and threats were heard of burning bridges that allowed imported coal to come in. An appeal to President Cleveland to protect such connecting points brought a call from four States for troops.[1] Another powerful factor that brought terms of agreement was the threatened coöperation of manufacturers and railroads with the operators in replacing union with non-union men.[2] At a meeting held June 9, there were enough representative operators present so that a scale was formed for Pennsylvania, Ohio, Indiana, and Illinois with the provision that it was to be effective if it could be enforced. The miners knew that most of the enforcing would have to come through strikes on their part, but it gave them some sort of standard to go by. An interstate board of conciliation and arbitration was named which was to look after disputed differentials between fields, and the miners were allowed checkweighmen and promised semi-monthly pay.[3]

It was hoped that this beginning meant the reëstablishment of the joint movement, but the squabbles and bickering over differentials, the breaking of agreements, the determined selfishness and greed of certain operators owning mines in fields of greatest natural advantage, and the forcing down of prices, all militated against it. The miners even kept faith with their agreement in one case to the extent of voluntarily lowering the wages in a district because they could not force one concern to keep the agreement.[4]

[1] Roy, *op. cit.*, p. 330.
[2] *Report of Ohio Bureau of Labor Statistics*, 1894, p. 128.
[3] Roy, *op. cit.*, p. 334.
[4] *Ibid.*, p. 342.

I. The Strike of 1897

A. CONDITIONS OF WORK AND WAGES

It is a long road that has no turn, and to appreciate the turning-point in this situation, it is necessary to know the full extent of the depths to which the labor and capital of the industry had sunk. The mining prices in the Pittsburg district in the beginning of 1893 had ranged from 65 cents per ton in the thick vein to 79 cents in the thin vein, but by 1897 they had sunk to between 28 cents and 30 cents in the thick vein and between 47 cents and 54 cents in the thin vein.[1] When it is known that a man can mine but three to five tons a day, and added to this could obtain but about 190 days' work a year, the low level to which the standard of living must have fallen is obvious. Testimony before a special legislative committee of Pennsylvania revealed the fact that in some localities eighty per cent of the miners had no knowledge of the English language and lived "like sheep in shambles." In Indiana and Ohio mining prices had fallen from 75 cents and 70 cents respectively to 51 cents, with a contemplated cut to 45 cents in Ohio. In Ohio the yearly earnings for 1896 ranged from $213.20 to $319.62.[2] Illinois wages had been on a par with the other States and for five months previous to the strike averaged about $12 per month.[3] President Ratchford, of the United Mine Workers, characterized the strike of 1897 as a "spontaneous uprising of an enslaved people," but pointed out that the conditions of the industry could not be laid at the doors of the great majority of employers. The situation, he held, depended for the most part on the actions of a few operators who "cut prices far below the demands of the market."

[1] George, "The Coal Strike of 1897," *Quarterly Journal of Economics*, vol. 12, p. 187.

[2] *Report of Ohio Bureau of Labor Statistics*, 1897, p. 113.

[3] George, *op. cit.*, p. 190.

B. EFFECTS OF MACHINERY

The introduction of mining machinery began in 1875, but by 1891 only 6,211,732 tons, or 6.6 per cent of the production, was machine mined. In 1896 the production was 16,424,932 tons, or 14.17 per cent, and by 1902 it had reached 69,611,582 tons, or 26.09 per cent.[1] Wherever machinery is introduced it does away with pick miners and makes them machine tenders or mere "loaders," and the incentive to work which the skilled laborer has is gone. It makes possible the introduction of a larger and larger percentage of unskilled labor. The price for loading in 1897 in Ohio was one half the rate for pick mining, and production had to double for the "loader" to make the same wages as a pick miner.[2]

By 1897 machines had almost supplanted pick mining in the Hocking Valley of Ohio, which produced ninety per cent of the State's output. Although the State's production had increased only 282,976 tons from 1890 to 1895, machine production had increased 1,878,674 tons, and by displacing pick-mined coal thereby decreased the miner's (or loader's) earnings. Besides, there was no proportionate decrease in the number of men to help maintain earnings at the old rate. On the contrary, from 1890 to 1895 there had been an increase of 787 men employed, which, with the failure of the demand for coal to exceed or equal the supply, served only as an added element to decrease the yearly earnings.

C. EARNINGS OF CAPITAL

The average selling price of coal at the mine had fallen in the previous six years, in Illinois, 11 per cent; in Indiana, 18 per cent; in Ohio, 16 per cent; in Pennsylvania, 18 per cent; and in West Virginia, 28 per cent.[3] The full

[1] Roy, *op. cit.*, p. 152.

[2] *Report of Ohio Bureau of Labor Statistics*, 1897, p. 112. [3] *Ibid.*, p. 192.

significance of persistent overproduction and the exploitation of unorganized labor by uncontrolled fields is demonstrated by the fact that, in the face of the beggarly condition of the miners and the low earnings of capital in their own States, West Virginia and Illinois operators were increasing their tonnage by 2,000,000 tons each, while the production of the other States was falling behind their usual output.[1] All the evils of the company store, abuse of screen system, dockage, etc., were rampant. The New York and Cleveland Gas Coal Company, which utilized all these methods, made its men work under an "iron contract,"[2] and got its coal mined for ten cents a ton less than any other company in the Pittsburg district, gave testimony under oath that it was making only $8000 profit on an investment of $1,000,000.[3]

D. CONDITION OF THE UNION

During the few years previous to the formation of the United Mine Workers in 1890, the coal trade had been on a fairly prosperous basis. The impetus given to the trade led to a rapid increase in the number of mines operated and the number of men employed. By 1894 the number of employees in the industry had increased 52,399 over the number employed in 1890, and an increase in coal production of over 7,000,000 tons had taken place. But the total production of coal mined in 1894 sold for $1,768,350 less than that of 1890 in spite of the surplus production. The secretary-treasurer of the union estimated that this was virtually the same as having the employees mine over ten million tons for nothing.[4] Of this increase of seven million tons the Virginias alone were responsible for five millions.[5]

[1] *Report of Ohio Bureau of Labor Statistics*, 1898, p. 75.
[2] A contract not to strike under penalty of losing all money due them.
[3] George, *op. cit.*, p. 196.
[4] *Report of United Mine Workers' Convention*, 1896, p. 15.
[5] *Ibid.*, 1896, p. 16.

These considerations show that there were fundamental economic factors which caused the decline in membership of the union. Its membership of 20,000 in 1890 had dropped off about 5000 by 1893, but this was offset somewhat by an addition of about 5000 in 1894, the year of the attempted "suspension." The failure of the suspension, continued unregulated production with attending low wages, and the slow recovery of business from the depression of 1893, were all conducive to further loss of membership. By 1896 the membership reached its lowest level, 9617.[1] With a membership of 9731 in 1897, and not enough money in the treasury to pay its officers or the expense of having a convention, the outlook for united action was not promising. The leaders from the States traveled to national headquarters at their own expense, and, after careful consideration of market conditions and the condition of the workers, decided to call a general strike (July 4) as a last resort. At least 150,000 men finally responded, practically the entire central field except a few districts in West Virginia and southern Illinois. Some districts in West Virginia were finally brought out by peaceful picketing and in spite of injunctions. In fact, a new solidarity seems to have been born, an appreciation of the meaning of quiet, united action.

E. NEGOTIATIONS FOR THE JOINT CONFERENCE OF 1898

Until the union succeeded in bringing out the West Virginia miners in the Pan-Handle and unorganized mines in the Pittsburg district, the operators had "nothing to arbitrate." By the latter part of August, however, they were ready to submit a plan for arbitration within each State and named a scale which should apply until an award was given. The miners refused to settle locally until conditions over the whole field had been adjusted, and

[1] *Report of United Mine Workers' Convention*, 1905, p. 45.

called for a conference of all the central States. At the Pittsburg conference in September a compromise scale granting an advance was agreed upon, with the understanding that it would be revised at a joint conference which should meet in Chicago in January, 1898. On that date a really representative body of operators and miners from Illinois, Indiana, Ohio, and Pennsylvania[1] laid a sound basis for further development in settling disputes.

A new generation of men had come to the front on both sides. They had suffered from adverse conditions and had learned a little from experience. Whether they recognized it or not, the operators had got some distance away from the position of "This is my business and I propose to run it," while the miners had learned that there really was only one coal field and that only unity would enable them to control the forces that oppressed them. Business in general during the nineties had been learning the value of combination and coöperation, and the operators and miners began to realize that the same spirit must prevail in the coal industry. Industrial operations were reaching too large proportions for the individual *entrepreneur* to expect to be a controlling factor. The régime of cutthroat competition had brought the earnings of capital and labor in the coal industry to the low level on which it then rested, and some controlling force was needed to establish differentials that would offset the irregularities of the coal fields. Differences in distance from the market and the accompanying freight rates must be taken into consideration. The relative richness and quality of coal resources in the various regions needed attention. The nature and form of the coal deposits, which of necessity established different working conditions for the men and affected their earnings, must be understood.

[1] West Virginia miners appeared at the convention, but were not seated because their operators did not appear.

The uniformity of a scale of wages for "outside" and "day labor" was another important element in putting the various coal fields on a basis of equality. These are some of the factors that determine the formation of a scale in the Interstate Joint Conference. The methods used in the conference in the formation of a scale, a statement of the scale of 1898, and the history of succeeding agreements up to 1912 will be taken up in chapter v.

4. EXTENSION OF THE JOINT MOVEMENT

At this point we are chiefly interested in the conditions which both parties had to meet in order to make the scale of 1898 effective. It was a comparatively easy matter to form an agreement among the men who met in the conference, but to put that agreement into operation widely enough to bring order out of what had been chaos was the chief problem of both parties. The conference was undoubtedly made up of the more far-seeing from both sides and of those who were suffering most from adverse conditions. To make operators and miners with strong individualistic tendencies see the necessity for concerted action was a different problem, especially if they happened to be fairly well satisfied with their state of prosperity. This difficulty was further increased by the general improvement in industrial conditions then beginning. But if the scale was to be effective, it was necessary to extend the agreement as widely as possible, and the burden of this extension had to rest upon the miners. Where the miners were organized and their employers happened to be obdurate about paying the scale prices, a strike had to be ordered to bring conformity. In sections where the miners were not united, their organization was a task that must be performed before pressure could be brought upon their employers. In order that we may understand the significance of the joint agreement in the bituminous fields as it exists to-day, we must know the extent of the

area over which the joint agreement is in operation and trace a few of the struggles that accompanied its installation.

A. The Struggle in Illinois

a. Virden and Pana — Importation of Negroes

Over the various States it was expected that the miners would have trouble with two classes of operators — those who were not represented at the conference and did not consider themselves bound by the agreement, and those who were represented but were dissatisfied. In Illinois the miners had to deal with about twenty such cases, chief among which were the Virden and Pana operators. The Virden Coal Company announced that it was impossible for it to pay the scale (forty cents a ton) and submitted its claims to the State Board of Arbitration for adjudication, promising to abide by the award. The board found evidence that the company could afford to pay the forty cents, but the company repudiated the decision and continued the contest.[1] The company then appealed to a committee of the national executive board of the United Mine Workers, but met with the same decision.

During the general strike of 1897 certain of the Illinois operators had threatened to break it by importing Chinese coolies, but learned that Governor Tanner would not allow such a procedure. So now, with the adverse decision of the miners' committee, the company erected stockades about the mines and imported negroes from Alabama under armed guards. The governor also refused to allow this action, on the ground that under the system of convict labor in the South the probabilities were that a large percentage of the negroes were criminals and had learned their trade under the convict system. Besides, bringing them in under a force of armed guards was

[1] *Report of Illinois Inspector of Mines*, 1898, p. 5.

practically an armed invasion of the State. The governor ordered the militia out with strict injunctions not to permit the disembarkation of the negroes. As was then said, "This is the first time in the history of the State or the nation that the military power of the law, during an industrial contest, has been exercised in defense of the rights of American labor."[1] The event created a furore in the metropolitan press (or as the "Coal Trade Journal" of New York put it, "the moneyed aristocracy press"), which tried to make political capital out of it and explain it on the basis of race hatred and discrimination. As the above "Journal" describes it, "The condemnation heaped upon the governor, boiled down and crystallized, is hatred for his position as a fair man, and opposition to his method of doing justice to all men. It is such a new thing."

"Such a departure from the ordinary way of doing business by the chief executive of any State is such an unheard-of thing that the employers, who heretofore have, almost without exception, been able to use the militia in defeating the projects and objects of the laboring people, are surprised. Workingmen have repeatedly charged that the militia were used to coerce them into obedience to the wishes of the employers, and that they were used for that purpose is at present very evident from the abuse heaped upon Governor Tanner."[2]

The lockout at Virden continued from April to November. By its complete capitulation in paying the scale and dismissing superintendents and mine managers who had taken obnoxious parts in the contest, the company demonstrated that it had been chiefly animated by stubbornness and a determination not to treat with union men.

The Pana operators refused to submit disputed questions to the State Board of Arbitration or any committee, basing their action on the assumption that the State had

[1] *Report of Illinois Inspector of Mines*, 1898, p. 6. [2] *Ibid.*, 1898, p. 15.

no right to interfere in private affairs (though they were a corporation) or to inspect their books.[1] They succeeded in getting negro miners, and the militia was stationed in the region for months to prevent rioting. In April, 1899, the state board again offered its services for conciliation, but failed to bring the parties to agreement because they were unable to come to a settlement of the question of reëmployment of union and the discharge of non-union men. By October, 1899, the operators were willing to pay the scale prices and to reëmploy their old men.[2]

This gives one an idea of the fierce fighting and the necessarily extended support by the union to the miners who were engaged in the struggle to bring the operators into the joint movement and establish uniform working conditions.

B. Iowa and Michigan seek Admission to the Joint Conference

In the miners' convention of 1898 their president announced that the union had organizers in every coal-producing State, from the anthracite field in the East to Wyoming in the West. The efforts of these men soon bore fruit in Iowa, for by 1900 the membership was over 7000, the State was organized into a district, and representative miners and operators were seeking admission to the joint conference. The same year Michigan was organized into a district with about one thousand members. But every coal miner in the State was within the union, and the growing importance of the State as a coal producer warranted such action.[3] In 1901 the operators and miners entered into a state agreement which gave the miners an increase of sixteen cents per ton and payment for inside and outside day labor equal to the wage in the

[1] *Report of Illinois Inspector of Mines*, 1898, p. 5.
[2] *Report of Industrial Commission*, vol. 17, p. 431.
[3] *Report of United Mine Workers' Convention*, 1900, p. 18.

central field.[1] In connection with the efforts of the operators and miners of Iowa and Michigan to gain admission to the joint conference, the operators of Ohio, Indiana, and Pennsylvania have always voted against it, while the operators of Illinois and the miners of all these States have been in favor of it. The operators have opposed it on the ground that mining conditions and competition were different and it would result in breaking down the system. The Illinois operators and the miners of the four States join with the Iowa and Michigan contingents and hold that Iowa and Michigan are in the competitive field as much as West Virginia, and, since the central States are the basing point, they should have a voice in making the scale. In 1900, as a matter of courtesy, since they had attended the conference with the hope of being admitted, the Iowa representatives were given a seat in the convention with no voice or vote.[2] Although Iowa and Michigan do not participate in the joint conference of the central field, their scales are fixed with reference to the prices established in that field.

C. Organization of the Southwest Field

a. the strike of 1899

In what is termed the "Southwest Field" — Missouri, Kansas, Arkansas, Oklahoma, and Texas — the United Mine Workers had organized the men by March, 1899. A request for recognition of the organization and for a joint meeting to form a scale was ignored by the large companies. The opposition came for the most part from four large companies termed the "Big Four," who insisted on meeting their own men and refused to recognize that conditions in the industrial world had become such that the men had a right to representation.

[1] *Report of United Mine Workers' Convention*, 1901, p. 52.
[2] *Proceedings of Interstate Joint Convention*, 1900, p. 46.

The demands of the men centered mostly around the eight-hour day, increase in the mining rate, and a decrease in the price of powder. A joint conference in June drew up a scale which conceded most of the demands of the men and it was signed by twenty-five of the small companies. It provided for a board of arbitration to settle differences that could not be settled by the "pit committee" of a mine and the mine officers. The institution of a committee in each mine to settle differences immediately was becoming common over the bituminous fields. It made possible the adjudication of working conditions that applied to all alike without making the individual workman who dared to state his grievances the object of persecution by an inconsiderate official. Besides, it brought up for immediate settlement matters, which, if left to grow, would produce widespread trouble.

B. CONFLICT OF FEDERAL AND STATE INJUNCTIONS

The "Big Four" refused to recognize the union and imported negroes from Alabama. The miners met the negroes as they got off the trains, explained the situation, promised support or transportation back to their homes, and induced many to leave. This was sufficient cause for the coal companies to obtain a federal injunction prohibiting the miners from "doing any act whatever" which would hinder the companies from carrying on their business.[1] The miners tried their hand at injunctions and obtained from a state court an injunction restraining the companies from importing a criminal class of citizens which would be a menace and expense to the State. But the federal injunction superseded the State injunction, and the negroes continued to come.

[1] Appendix to *Report of Kansas Bureau of Labor*, 1898, p. 340.

C. THE REESE CASE

In connection with the strike a typical case arose which gives one an appreciation of the handicap under which union organizers labored in their efforts to extend the organization of the miners and establish a basis for further extension of the joint agreement. During the progress of the strike, J. P. Reese, of Iowa, a national organizer, was sent to the scene of the trouble to direct the men. He had come into the State of Kansas before the injunction was issued, but was not brought under its provisions by name or by the inclusion of the terms "servants, agents, and attorneys of the defendants." He addressed a meeting at Yale, Kansas, and some of the strikers committed trespass in going to the meeting. The judge, when sentencing him to three months in jail, a fine of one hundred dollars, and costs of the case, admitted that the injunction did not prohibit assemblage and discussion; that it was not proven that Reese used violent language; that the strike was conducted peacefully; but held that the effect of the meeting was to intimidate the negroes and cause them to quit work. After Reese had spent a month in jail he was released on a writ of *habeas corpus* granted by the United States Circuit Court of Appeals at St. Louis. The writ was granted on the grounds that the injunction had not been phrased so as to include him and the fact that the lower court had exceeded its jurisdiction.[1] The instance shows what an unsatisfactory process it is to be subjected to a one-man trial, lie in jail, and finally be informed that one is not guilty. In fact the injunction has been one of the most effective weapons in many cases for snatching victory from the miners just as they seemed ready to bring about an extension of the joint agreement. That labor in general is still handicapped by the injunction in its legitimate efforts to better its condition would seem to show the necessity

[1] *Report of Kansas Bureau of Labor*, 1899, p. 465.

of raising the question, as to the proper use of the injunction, out of the realm of controversy between labor and capital and connecting it with the issues that demand a broad social policy and action for their solution. This case "excited great indignation among the industrial masses of the United States by reason of the high-handed usurpation of judicial authority,"[1] but the miners had been merely introduced to the use of the injunction as a "strike-breaker."

D. THE MINERS' COMMISSARY

A notable feature of the strike was the successful operation of commissary stores which were supported by the miners. The stores were in charge of local secretaries who handled the provisions in the same manner as in a general store, and the miners obtained goods to meet their actual needs by signing a receipt which showed the extent to which each individual was being helped and enabled the secretary to account for all that he had received.

Finally, in the spring of 1900, as the miners showed no signs of being starved out, the "Big Four" companies, one after another, offered their employees wage scales and working conditions practically the same as the scale of the joint convention. But the companies refused to recognize the United Mine Workers as an organization and the agreements were drawn up between the companies and their own employees.

E. THE SOUTHWESTERN INTERSTATE JOINT CONFERENCE

From 1899 to 1903 the miners and individual operators continued the plan of joint agreements. But in 1903 the Southwestern Interstate Coal Operators' Association was organized and the contracts were made and carried out between the Association and the United Mine Workers as

[1] Roy, *op. cit.*, p. 378.

organizations. In that year the "Big Four" joined in making a scale in the interstate conference, and since these four companies produced about two thirds of the coal of that region, it was "particularly gratifying" to the president of the miners to be able to report their participation.[1] The interstate meeting establishes general conditions over the whole field, and then special agreements are made to suit the varying working conditions and opportunities for production in the different districts.[2]

F. THE SOUTHWEST FIELD SEEKS ADMISSION TO THE JOINT CONFERENCE OF THE CENTRAL FIELD

In 1906 the delegates of miners and operators from Missouri, Arkansas, Texas, and Indian Territory were refused admission to the conference of the central field on the ground of diversity of interest. The operators of the conference pointed out that the method of voting made it possible for one State to forestall an agreement and accused the miners of misdirecting their efforts in organizing the southwest field when they should have been occupied with coercing West Virginia,[3] which they regarded as their most dangerous competitor. The scale in the southwest field is governed largely by the action taken in the central field.

D. Attempt to organize Maryland

In the spring of 1900 the miners of the George's Creek district of Maryland had been organized and a request made for joint agreement. The companies refused to meet the organization, but offered as a sop an increase of ten cents a ton, which was five cents less than the scale for the central field of Pennsylvania.[1] The miners wisely saw that

[1] *Report of United Mine Workers' Convention*, 1904, pp. 27–28.
[2] Texas has not been in the joint agreement since 1908.
[3] *Proceedings of Joint Conference of Central Field*, 1906, p. 8.

this increase would be one only in appearance, not in substance, for the companies refused to allow the men to have checkweighmen. Because the men attended a meeting addressed by the national officers, one hundred of them were discharged. The officers appealed to the operators for the reinstatement of the men, but to no avail. A strike was called in April and the men held out till August, when a break in their ranks caused all of them to apply for work. Eight hundred were blacklisted, remaining an expense to the organization, and the fight already made was useless. As is common in such a case, the union helped to distribute the men in organized fields.

During the strike unusual methods were used by the operators to break up the solidarity of the men. An attorney was hired to call a meeting and address the men. Some of the miners were disposed to disturb the meeting, but they were warned by the national organizer, Warner, not to do this. For his good offices he and several others were arrested and charged with riot and unlawful assemblage. The charge of riot was not proven, but on the charge of unlawful assemblage the judge held that the assemblage had prevented the right of free speech and Warner was made responsible for disbanding the men.[2] With the Reese case in mind, the miners naturally raised the question as to whether the courts would have been so solicitous if it had been *their* free speech which was at stake. Warner was sentenced to six months and the others to shorter terms. Requests for a change of venue and appeals to the higher courts and the governor were without avail, although the defendants claimed evidence of prejudice and unfair trial. To this day Maryland has no joint agreement. In chapter II the underlying forces which have kept the industry in that State in a disorganized condition receive consideration.

[1] *Report of United Mine Workers' Convention*, 1901, p. 37.
[2] *United Mine Workers' Journal*, August, 1900, p. 1.

E. The Struggle in Alabama, Tennessee, and Kentucky

Between September, 1897, and January, 1899, the miners had succeeded in organizing about 2500 men into thirteen locals in Alabama, four locals in Tennessee with a membership of 400, and in Kentucky into eighteen locals with about 2000 members.[1] Although the membership was still small in 1898, a strike of considerable proportions took place in Tennessee in protest against the "subcontracting" system of mining coal. This system resulted in keeping about forty-six per cent of the miners digging coal for much less per ton than they could get by working independently. The settlement obtained abolished the system and raised the rate of mining about fourteen cents.[2]

By 1900, District 19, comprising Kentucky and Tennessee, had been formed with a membership of over 4000 scattered among thirty-six locals. Joint agreements were entered into by many operators, but the union met with very determined opposition in Hopkins County, Kentucky. The Hopkins County operators "paid whatever wages they chose and entered any market they desired." Peaceful overtures were refused, and the strike called in November, 1900, resulted in the importation of negroes and the use of the injunction. The injunction in this case went so far as to forbid the United Mine Workers to furnish the strikers with food and supplies.[3] Not until 1908 did the organization consider the situation favorable enough to seek to gain a joint conference, but the efforts of the miners' leaders were not successful and the operators of the county still refuse to make any agreement with the union.

By 1903 the union in Alabama had increased to about

[1] *Report of United Mine Workers' Convention*, 1899, p. 6.
[2] *Ibid.*, p. 20.
[3] *Ibid.*, 1902, p. 59. Reprint of injunction.

8000 members,[1] and in the state convention of that year the miners demanded that their wages and working conditions be made to conform more nearly to the standards fixed by the central field.[2] The refusal of the operators to meet these demands led to arbitration proceedings wherein the operators and miners were each represented by two members, and Judge Gray, the former Chairman of the Anthracite Coal Strike Commission, acted as referee. The award granted the miners an increase of two and one half cents per ton on the mining rate with a corresponding increase on day wages, established a semi-monthly pay day, prohibited the employment of boys under fourteen, and regulated the issuance and transfer of store orders.[3]

The sliding scale, which automatically adjusted mining rates according to the fluctuation in the prices of iron, was not abolished. The Tennessee Coal, Iron, and Railroad Company was the dominant factor in regulating conditions of mining both in Tennessee and Alabama. In 1904 this company, along with other "furnace"[4] operators, refused to pay the scale established by arbitration in 1903. After several conferences the operators still declined to pay the scale and declared their "inability to pay more than they had proposed and operate their mines and furnaces without a loss."[5]

The miners' state convention met and voted for a strike. This brought an offer of five cents more on a ton than the operators had previously declared themselves able to pay, but the offer held good on condition of an increase of one hour on the working day, monthly payment, increase in the differential between pick and machine mining, and the severance of the employees from connection with their union.[6]

[1] *Report of United Mine Workers' Convention*, 1903, p. 17.
[2] *Ibid.*, 1904, p. 28.
[3] *Ibid.*, p. 28.
[4] Operators who employed miners to produce coal for iron furnaces.
[5] *Report of United Mine Workers' Convention*, 1905, p. 16.
[6] *Ibid.*, p. 17.

The "commercial" operators continued to pay the scale, but 10,000 men employed by the "furnace" operators went on strike. Four federal injunctions and one from a state court supplemented the efforts of the operators to obtain non-union labor from other States with attending success. The efforts of the officers of the United Mine Workers and of the American Federation of Labor to prevent shipment of non-union men from Eastern points were not so successful. The climax to the Alabama strike came when the governor ordered the state militia to cut down the tents used to shelter the evicted mine workers and their families. In addition to this order the soldiers were directed to take possession of the tents, and orders were issued that public meetings could not be held. The governor also threatened to call a special session of the legislature to repeal the vagrancy law of Alabama, so that every striking miner could be arrested and sent to prison.[1]

At Tracy and Whitewell, Tennessee, the miners employed by the Tennessee Coal, Iron, and Railroad Company went on strike over the same issues that involved the Alabama employees of this same company. By January, 1906, the organization had spent over $127,000 in supporting the strike in Tennessee and nearly $600,000 in Alabama.[2] These strikes terminated unfavorably for the union and resulted in the break-up of the joint agreements in Alabama, but the president of the miners consoled his followers in their convention of 1907 with the words, "While we failed to secure the conditions of employment we sought to obtain, we have demonstrated that although an organization of peace we have the ability to fight."

The membership of the union has steadily declined until in 1913 it stood at 192.[3] If the Tennessee Coal, Iron,

[1] *Report of United Mine Workers' Convention*, 1909, p. 66.
[2] *Ibid.*, 1906, p. 59.
[3] *Report of Secretary-Treasurer of the United Mine Workers*, 1913.

and Railroad Company, which is a subsidiary of the United States Steel Corporation, continues to follow out the policy of the larger corporation in dealing with its labor, the miners may expect a long struggle before their organization will be able to gain recognition.

F. Organization of the Northwest

In 1904 Montana and Wyoming were organized into a district which included nearly all the miners in those States, and the next year a district was formed in Washington. The same year in which Montana and Wyoming were organized, the union formed a district in British Columbia, and the organization became international in scope. This expansion was recognized by the union's prefacing the designation of their union and its officers by the term "international."

In 1907 a dispute in British Columbia furnished one of the first occasions for conciliation under the Canadian Industrial Disputes Investigation Act. The miners of the district had met the operators in joint conference March 4 and 18, but failed to agree. This same month the Disputes Act was enacted. The contract of the operators with the miners ran out on April 1, and as no agreement had been reached the miners made application for a conciliation board as provided for in the act. A board was established by the Government, but during the delay in the appointment of its members and their arrival at the scene of the trouble the miners suspended work. This was contrary to the act but was attributed to a lack of understanding of its provisions and hasty action on the part of the miners' executive board.[1] General fear of a coal famine on the part of the public in that section caused the Minister of Labour to send the Deputy Minister to the scene. Explanation of the act and conciliatory measures by the Deputy

[1] *Report of Canadian Department of Labour*, 1907, p. 238.

Minister soon brought the parties together and resulted in their settling the grievances among themselves. Furthermore, arrangements were made for future peaceful settlements by a series of conferences between the parties. Provision was made for the appointment of an independent chairman by the Minister of Labour if the parties failed to agree upon a selection.[1] By 1908 the president of the miners joyfully announced "that the operators in these districts (Washington, Montana, Wyoming, and British Columbia) have recognized our organization; they have entered into contracts with us establishing the best mining rate and the highest day wage scale existing in the United States or Canada."[2]

G. The Colorado Struggle

Colorado was organized into a district in 1901, but the union increased in numbers very slowly. Their union representatives failed repeatedly to get a hearing and the district entered upon a strike the latter part of 1903. After the strike had been in progress about four months the national officers considered it futile to continue the struggle longer and called a convention at which it was expected the miners could be induced to go back to work. The governor anticipated the convention by the declaration of martial law the day previous to the one set for the meeting. The miners "were so incensed at the unwarranted and uncalled-for action of the governor that, instead of calmly considering the status of the strike and declaring it off, as they undoubtedly would have done had the troops not been there, they decided that while the civil laws were suspended a resumption of work would be regarded as a cowardly surrender."[3]

Non-unionists were imported; organizers and members

[1] *Report of Canadian Department of Labour*, 1907, p. 251.
[2] *Report of United Mine Workers' Convention*, 1908, p. 28.
[3] *Ibid.*, 1905, p. 11; report of the president.

of the national executive board "were murderously assaulted in broad daylight while traveling on passenger trains; other organizers were held up and beaten on the public streets, while still others were threatened that if they did not depart from Colorado their lives would be in danger."[1] After the organization had spent about half a million dollars in supporting the men, the national executive board decided to advise a resumption of work and every victimized man and his family were transported to some place where he could obtain work. The union has been unremitting in its efforts to build up membership in Colorado and obtain a joint agreement, but, as we write this account, current news describes conditions similar to those recorded above. Martial law, imprisoning of organizers and holding them *incomunicado*, and resolutions on the part of Congress providing for an investigation of the trouble are items inviting the attention of the public.

Thus we see that the principle of the joint agreement is in operation in the central field comprising Illinois, Indiana, Ohio, and Pennsylvania; in the southwestern field which includes Missouri, Arkansas, Kansas, and Oklahoma; in Iowa and Michigan; in Kentucky and Tennessee; and in the Northwest.

One naturally wonders why West Virginia does not appear in the list. In order to answer that query satisfactorily, it has been found necessary to devote a separate chapter to this State. A greater significance attaches to it than a mere explanation as to why the State is not included in the system of joint agreements. Besides the importance of the relation of the State to the further continuance of the system of joint agreement, the factors at work in West Virginia should be of great concern to the public in connection with a policy dealing with the control of our coal resources. In the richest bituminous field in America (comprising West Virginia, western Vir-

[1] *Report of United Mine Workers' Convention*, 1905, p. 12.

ginia, Maryland, central and southwestern Pennsylvania) we shall find the same influences at work which have brought concentrated ownership and control of the anthracite region and have given rise to the social problems attached thereto. We must understand why the West Virginia problem has played such an important rôle in the interstate joint conference of the central field, and why it has loomed up as the most important factor which threatens to disrupt the system of conciliation and arbitration.

CHAPTER II

THE WEST VIRGINIA PROBLEM

1. THE IMPORTANCE OF THE PROBLEM

An invitation was extended to the West Virginia operators to attend the joint conference in 1898, but they did not respond. The question arises as to why they failed to respond. The most important reason was because they could produce coal more cheaply than other fields, realized it, and proposed to use their advantage to build up a market for their coal. In fact they had to make a market for their coal, because as late as 1913 only ten per cent of their production was sold to consumers within the State.[1] One factor making cheaper production possible is found in the wealth of coal lying within the state borders. It is said that West Virginia has more soft coal than any other State in the Union.[2] Besides, this coal can be got at easily by direct entrances made into the sides of the hills, while Illinois operators, for example, have to sink shafts. The character of the veins is such as to enable the West Virginia operators to get from six to ten feet of clean coal in contrast to the five-foot vein in eastern Ohio and the Pittsburg district. Besides possessing the finest quality of coal, there is considerable variation of coals — gas coals, coking coals, steam, and domestic coals.

Because their labor was unorganized, the West Virginia operators were able to demand a ten-hour working day over against the eight-hour day of the union fields. The

[1] Hearings before a subcommittee of the Committee on Education and Labor of the United States Senate, 63d Congress, 1st Session, *Senate Res.* 37, part 3, p. 2175.

[2] *Report of Ohio Bureau of Labor Statistics*, 1901, p. 294.

lack of a union also enabled them to require larger mining cars containing more pounds to the ton, refuse the men checkweighmen in connection with the weighing of their coal, and exercise their own discretion in regard to the amount of coal which they docked the men on account of impurities in the coal. Besides, they were in a position to say what they would pay the men for "deadwork," and whether the men should be paid for their coal according to a mine-run method or after it had been screened.

Although the West Virginia operators had to ship coal a greater distance to put it into the Great Lakes' markets, the freight rates were adapted to their needs so that by 1901 the Industrial Commission pointed out that the rates from West Virginia to the Lake ports were as cheap as from points in Ohio but half the distance. The rates from West Virginia to St. Paul (one thousand miles) were as cheap as from points in Illinois which were only four hundred miles from St. Paul. The railroad connection with some of the best Atlantic ports and with the Lake and Northwestern markets has enabled the State to rise from the lowest rank as a producer of coal until it now stands next to Pennsylvania, which has the highest tonnage.[1] West Virginia coal is now sold all over the country and is shipped from Newport News to foreign countries.

As early as 1884 we hear complaints from the Pennsylvania operators on the Monongahela River, who had formerly held the market from Pittsburg to New Orleans, that coal from the Kanawha River district of West Virginia was taking their market. The chief explanation then offered was that the building of locks on the river by the State gave the Kanawha operators constant boating without payment of tolls and placed them 240 miles nearer the market. But the Monongahela operators were subjected to tolls from a navigation company, and the Monongahela was frozen over several weeks during the winter. However,

[1] West Virginia produced 2,500,000 tons in 1882; in 1912, 59,000,000.

it was pointed out that the miner had to bear the chief burden of this competition by accepting wages low enough to enable the Monongahela operator to get the market and still make a profit.[1]

We have seen that the miners and operators of the central field were made to appreciate the full significance of West Virginia competition during the "suspension" of 1894.[2] In the joint conference of 1898, the fact that West Virginia was not in the conference was looked upon as the element most likely to cause a break-up of the system of joint agreements. They realized that West Virginia competition was to be a growing danger, and that every effort must be made to establish working conditions, wages, and freight rates that would place the States as nearly as possible on an equal basis. The granting of the eight-hour day and other concessions was looked upon by the operators as their part of a contract which bound the miners to give the operators in return "adequate protection against the competition of unorganized fields." The tonnage from West Virginia and Kentucky (600,000 tons) entering into competition with the central field was not "so large as it was aggressive and threatening"; but by 1910 it was estimated that the competitive tonnage from non-union fields was equal to fifty per cent of the coal consumed in northern and western Ohio, eastern Indiana, and Michigan, while 8,000,000 tons from non-union fields, not including fields adjacent to Pittsburg, entered into competition with coal from eastern Ohio and Pennsylvania.[3]

Year after year the competition from West Virginia has taken on a more threatening aspect as an obstacle to agreement on a wage scale. The fact that the United Mine Workers have failed to organize the State has furnished occasion for taunts from the operators that the miners

[1] *Report of Secretary of Internal Affairs of Pennsylvania*, 1884, p. 76.
[2] See above, p. 39.
[3] *Report of Senate Committee Hearings*, *op. cit.*, part 3, p. 2152.

were not properly directing their efforts. In return from the miners came veiled and open implications that the operators did not want the State organized and were not doing what they might to help bring it about. By 1910 the only remedial measure which the operators could suggest to meet the growing pressure from West Virginia was for the miners to take a step backward toward the wage scale and working conditions of West Virginia. It remains for us to consider the attempts that the miners have made to organize the State and the reasons why they have failed.

2. THE ATTEMPTS AT ORGANIZATION

It has been said that in the middle eighties West Virginia had more local unions in proportion to the number of miners than now.[1] Though this is very indefinite, it would seem to indicate that there was considerable agitation in West Virginia about the time of the organization of the National Federation of Miners and Mine Laborers in 1885. Evidently what was attained was not very effective, for the West Virginia operators were never a party to the interstate joint conferences.

At the meeting of the First Annual Convention of the United Mine Workers in 1891, there was a voting power of representatives from West Virginia which would indicate a membership of about fifteen hundred.[2] The following year the miners in the Fairmont district of West Virginia made a demand for higher wages and struck without notifying the national officers. The local leaders then called upon the national organization for support, but an investigation by the national officials convinced them that neither market conditions nor wages in competing districts warranted the men in striking or in appealing for aid. The strikers were ordered back to work. The

[1] *Report of Senate Committee Hearings, op. cit.*, part 2, p. 1670.
[2] *Report of United Mine Workers' Convention*, 1891, p. 7.

operators took advantage of this situation, discharged the leaders, and declined to recognize the union.[1]

During the general strikes over the central field in 1894 and 1897, the West Virginia operators raised the rates of wages to their miners and kept them at work while the other fields were idle. Out of 15,049 workers in 1897 only 5314 struck. At this time the union had but 206 members in West Virginia. Besides a raise in wages, some of the operators gave their men a bonus which allowed them to share in the results of increased business activity. This was not only effective for the moment, but it enabled the West Virginia coal to get into markets where it had never been before, and its superior quality, followed later by cut prices, enabled it to hold its ground. As we have seen, it was the influence of West Virginia coal that brought quick settlement of the strikes, and under conditions that ultimately reacted on the West Virginia miner. If the West Virginia miner had stood with his fellows and enabled them to bring up the general scale, he would not have been forced to work on so low a level. This has now become evident to the national officers of the miners. They pointed out to the operators, in the recent joint conference of the central field, that it would be useless for them to accept a reduction in the hope of competing with West Virginia, for West Virginia wages and working conditions would only be forced down lower than those of the central field. This would still enable the West Virginia operator to profit by his natural advantage.[2]

During the years 1897 to 1900 the union made very little progress in West Virginia, but in 1901 a specially organized campaign brought eighty local unions with a membership of 5000 into the fold. The State was divided into two subdistricts with active, working officers, but

[1] Roy, *op. cit.*, p. 322.

[2] *Proceedings of Interstate Joint Conference* (central field), 1912.

"active participation in the organization by any West Virginia miner [was] invariably followed by dismissal from employment."[1] Furthermore, the movement was greatly handicapped by the intense race prejudice existing between the American miner of that region and the foreign worker. The extent of this prejudice may be appreciated when we recall that even Americans from other sections of the country are looked upon as "furriners" by the mountaineer. The operators were also able to make effectual use of the argument that "the sole object of the United Mine Workers in sending organizers into West Virginia was for the purpose of inaugurating a general strike in the interest of other States."[2]

In the early spring of 1902 the miners of West Virginia in a state convention formulated a wage scale and sought a joint conference with the operators. Failure to obtain a meeting stirred up discontent to the point where the national and district officers thought it advisable to call a strike in order to prevent the union from disintegrating.[3]

The strike which was begun in June involved about eighty per cent of the miners of the State and the "prospects of a complete tie-up were encouraging." Non-unionists were imported and the injunction was used to prevent organizers from "holding meetings at or near the mines of the companies," and even though the assemblage took place on leased ground the organizers were imprisoned. When they were released on bond they "were required to abstain from their functions as organizers in that State." Under a *habeas corpus* proceeding, brought by the miners to secure the release of some of their organizers, the issue was raised as to whether the Guaranty Trust Company of New York had the right to sue out an injunction; but when the "case was taken to the higher

[1] *Report of United Mine Workers' Convention*, 1902, p. 41.
[2] *Ibid.*, p. 55. [3] *Ibid.*, 1903, p. 38.

courts the decision of the lower court was affirmed and our members were remanded back to jail."[1] The vice-president of the miners, in answering the question as to why injunctions were issued in labor disputes, pointed out that the injunction as a "strike-breaker is the most dangerous weapon ever brought into existence because of its sweeping character; the most effective in its application because it is used in the name of the law; the most destructive to labor's interests because there seems to be no appeal from the opinions of the individual judges who issue the injunction; the least expensive to the employers of labor because the official representatives of the Government enforce the provisions of the injunction." He also found in his travels over the State that the operators "were fearful that in some manner we were attempting to organize that State in order to drive them out of business."[2]

With such feelings actuating them and with the power to gain their ends, there was small chance of the operators meeting the miners to obtain a peaceful settlement. The strike rapidly disintegrated in the Fairmont district and along the Norfolk and Western Railroad, but was continued in the New River and Kanawha districts until September.

It was during the strike in the Kanawha district that an event occurred which reveals the strength of the determination to prevent unionism from gaining a foothold in West Virginia. The national officers were sending supplies to the striking miners of the Kanawha district. Several carloads of groceries, ordered from the wholesale grocery house of Shaw, Irwin & Co. of Cincinnati, failed to reach their destination and it was found that they had been side-tracked. The application of Shaw, Irwin & Co. for an injunction against the Chesapeake and Ohio Railway in the United States District Court at Covington, Kentucky, asking that the railway be enjoined from hindering the

[1] *Report of United Mine Workers' Convention*, 1903, p. 53. [2] *Ibid.*, p. 54.

free delivery of their goods, was granted.[1] Of course the railway depended on the transportation of coal for its chief business in that district and it would have been just as well pleased to have had the strike stopped as soon as possible. However, we shall see later whether that explains the whole situation.

In spite of all handicaps the miners in the Kanawha district, with the help of the national union, held together until the operators were ready to meet them. The settlement reached on September 4, involving about 8000 miners, gave the men a nine-hour day, checkweighmen, reduction in the price of powder, semimonthly pay, the right to trade at any store they preferred, the right to belong to the United Mine Workers, and the reinstatement of all strikers without discrimination.[2] The contract was made for two years. Besides, an increase of ten per cent in wages (which the union attributed to its agitation) was granted in the Fairmont district and in the region traversed by the Norfolk and Western Railroad.[3]

At the expiration of the contract in the Kanawha field in 1904, another agreement was reached in joint conference which also included the Cabin Creek district. The national vice-president, who attended the conference, expressed the hope that the successful working of the joint agreement in the Kanawha district would make the other operators more willing to enter into similar contracts. But the Kanawha contract included a provision for the "check off" of dues to the union, and the operators of Cabin Creek gave their men to understand by notices and by instructions to foremen that the miners did not have to pay their dues, and by other means encouraged — if not coerced — them to sever their connection with the

[1] *United Mine Workers' Journal*, September 18, 1902. Reprint from Cincinnati *Post*.

[2] *Report of United Mine Workers' Convention*, 1903, p. 53.

[3] *Ibid.*, p. 38.

union.[1] In answer to the protest of the district officers, the Cabin Creek operators offered to arbitrate the question, but when the matter was referred to the national officers, they "approved the action of the district officers in refusing to arbitrate a question clearly defined in the records of our convention and accepted without equivocation by seventy-five per cent of the operators in the Kanawha field."[2] The union men struck without success and the organization removed them to other fields where they secured work in union mines.

The miners and operators in the Kanawha field have continued to form agreements, but the membership of the union in West Virginia has been maintained with difficulty and there has been no extension of the joint agreement to other fields until recently. The struggle in the Cabin Creek and the Paint Creek districts in 1912 is considered in another connection in the latter part of this chapter.

These events which have been described are fairly indicative of the factors which have prevented the organization of the State and the joint agreement, but there are larger economic and social considerations which demand attention before we are in a position to appreciate the full significance of the West Virginia problem.

3. WHY WEST VIRGINIA HAS REMAINED UNORGANIZED

A. Rural Workers and Individualism

In the first place, there has always been a large force of country laborers to draw upon to whom the wages paid in the mine were very attractive. Unless the worker was intelligent enough to consider carefully what his net wages were, he would not discover that the job was really

[1] *Report of United Mine Workers' Convention*, 1905, p. 19.
[2] *Ibid.*, p. 19.

less attractive than it looked. Only after deductions were made for tools, supplies, powder, unfair weighing and measuring, dockage, an allowance made for "deadwork," and the small number of working days taken into account, would he be able to determine whether he was better off than at rural work. The standards of living and prices in the rural regions of West Virginia are relatively lower than in the rural regions of Illinois, Indiana, and Ohio. In 1897 (the year of the lowest level) only in the Pittsburg thick vein, where southern European labor was abundant and rates low, were the wages of miners lower than in West Virginia. In the former, 28 to 30 cents per ton was paid, while West Virginia's *average* yearly wage was $275. In 1903, a year of one of the highest levels which the scale reached in all the States, West Virginia had an average price of 49.5 cents per ton,[1] while the average in Illinois was 64.4 cents; in Indiana, 88 cents; in Ohio, 76.7 cents; and in Western Pennsylvania, 52.9 cents.[2] Individualism was highly developed, as is always the case with native mountain peoples. Many miners worked on a contract basis and employed negroes to work for them at a very low rate.[3] Even now, ten per cent of the mine workers are negroes working on such a basis, while six per cent of the workers are skilled negro miners working on their own initiative.[4] Thus a rural population with strong individual tendencies and with opportunities for individual enterprise in employing contract labor would not take readily to an organization which required group action.

B. Immigration

Immigration has also played an important part in preventing organization. In 1903 the Society for the Protection of Italian Immigrants found it necessary to

[1] *Report of Chief Mine Inspector of West Virginia*, 1903, p. 74.
[2] *Proceedings of Interstate Joint Conference*, 1903.
[3] George, *op. cit.*, p. 193. [4] Official correspondence.

investigate conditions in West Virginia. From this investigation it was found that large bands of men were being imported into West Virginia by coal and construction companies to carry on the exploitation of natural resources. The companies were in collusion with Italian agents in New York who made a business of distributing immigrants. In most cases the immigrants were deceived into thinking their destination was but a short distance from New York. The companies paid their transportation and naturally made efforts to retain them as long as possible. The avarice of the agents led them to send barbers, waiters, and other men entirely unfitted for the work of mining, thus increasing the difficulty of holding them. However, in the "boarding-house law" the keepers of the commissary had a ready weapon at hand for their arrest and detention. Forceful detention and the employment of armed guards to intimidate the men led to practices which were well termed peonage. The society took measures both in New York and in West Virginia to remedy conditions.[1] But the fact that the companies could thus direct a labor supply, whether forcibly or peacefully, shows the significance of immigration to a working population which is seeking solidarity in order to raise its standard of living. Recent testimony before the Senate Committee on Education and Labor[2] brought out the fact that the State Government had coöperated in directing the flow of immigration. A state law was passed in 1871 which provided for the appointment of an immigration commissioner. He was to correspond with parties outside of the State to obtain both labor and capital and "to show the advantages of West Virginia."[3] Although there was no provision in the law to warrant it, the commissioner appointed in 1907 did not

[1] *United Mine Workers' Journal*, June 18, 1903, quotes the society's report from the Pittsburg *Dispatch*.

[2] *Report of Senate Committee Hearings*, *op. cit.*, part 2, p. 2080 *ff.*

[3] *Ibid.*, p. 2086.

receive a salary, but obtained his compensation by fees from coal companies for furnishing them labor. Before the commissioner was authorized to act he was supposed to investigate working conditions and to obtain an indorsement from the Board of Public Works. The act was passed at a time when the State badly needed an industrial population, and it was thought good policy for the State to get its share of the stream of immigration. The Board of Public Works organized for this purpose had the power to appoint a commissioner, fix his salary, and obtain payment for all expenses from the state treasury.[1]

This state coöperation resulted in the commissioner's hiring himself for a stated salary to one company, the New River Company, for which he worked from 1907 to 1909, and to the Consolidation Coal Company from 1909 to 1913.[2] We shall hear more of this company later. The companies' advertisements for labor bore the official indorsement of the "State Commissioner Immigration, State of West Virginia," and gave no indication that he was a special agent of the company. Thirty-one per cent of the mine workers are now of non-English-speaking peoples, and sixteen per cent are negroes.[3] It is easy to appreciate the part which a heterogeneous mining population has played in preventing organization.

C. Absentee Ownership

A condition that early showed its force in preventing organization was the ownership of West Virginia mines by operators and capitalists of other States. So long as they could keep the rural population working for less than union wages, they had no desire to pay them more even though the coal they owned in West Virginia did drive out the coal they owned in other States. At the same time that their West Virginia coal was supplanting some of their coal

[1] *West Virginia Laws*, 1871, chap. 156.
[2] *Report of Senate Committee Hearings, op. cit.*, part 2, p. 2085.
[3] *Ibid.*, p. 2028.

in Ohio and Illinois, it was also taking a larger percentage away from their competitors in those States. There is plenty of evidence that this situation exists, for operators who have cried loudest against West Virginia competition have been known to use their West Virginia coal to take the local market away from a mining town in Illinois and force the closing of the mine.[1] And from these same men the United Mine Workers have met with the sternest opposition in attempting to organize the West Virginia miners.[2] In fact, absentee owners concern themselves mostly with dividends, and may well consider the pertinency of a question asked by Senator Kenyon of an absentee owner — "Now, is not that one of the troubles in this country, that wealth sits back and says, 'Our responsibility is ended in merely getting our dividends and seeing that things are done in an orderly way'?"[3]

D. The System of Armed Guards

The nature of the region and the necessity for the protection of their properties has been the chief argument which the operators have advanced for maintaining a system of armed guards. This system has been a powerful weapon in controlling the working force. In holding the men who had been imported until they at least worked out the cost of their transportation, and in keeping out union organizers, it has been very effective. In 1897 a law was passed which prohibited the employment by corporations of non-residents of the State for police duty. This was aimed at the mine guard system. In so interpreting it, Senator Kenyon in the recent investigations was informed by a representative of the operators that he was stating the statute "a little too broadly," as the statute forbade "the employment of any non-resident of the State to do police duty,"[4] though this interpretation has not prevented

[1] *Report of Senate Committee Hearings*, *op. cit.*, part. 2, p. 2027.
[2] *Ibid.*, p. 2028. [3] *Ibid.*, p. 2125. [4] *Ibid.*, p. 1392.

the operators from employing private agencies who brought in strong-arm men from outside the State.[1] The full significance of such a system was shown during the recent strike when the feeling between the men and the mine guards rose to the point of causing bloodshed. We are interested at this point in simply enumerating the guard system as one of the factors preventing organization by the union. The full import of the system of guards will be shown in the discussion of the recent West Virginia strike.

E. Injunctions and Conspiracy Laws

The treatment which the union has received at the hands of the federal and West Virginia courts under injunction and conspiracy laws is anything but conducive to the moderate language in which the organization's one-time leader referred to injunctions — "It is difficult to speak in measured tones or moderate language of the savagery and venom with which unions have been assailed by the injunction, and to the working-classes, as to all fair-minded men, it seems little less than a crime to condone or tolerate it."[2] One of the judges of a United States District Court showed his lack of appreciation of the union movement by referring to the organizers as "a professional set of agitators" and "vampires that fatten on the honest labor of the coal miners." In 1902, under an injunction case the union movement was held to be a conspiracy by which the union sought to control the coal industry of West Virginia. Several organizers were punished under the law of conspiracy and for the violation of an injunction forbidding them to hinder (by picketing) the operation of the Virginia Iron, Coal, and Coke Company's plant. The case was approved by two circuit judges, and as it was impossible to get a writ of *habeas corpus*, direct appeal was made to President

[1] *Report of Senate Committee Hearings*, *op. cit.*, part 1, p. 85.
[2] Mitchell, *Organized Labor*, 1903, p. 324.

Roosevelt, who, after an investigation of the case had been made, pardoned the men.[1]

F. State Statutes versus the Common Law

Another important factor which has prevented the union from gaining a foothold has been the overthrow of the state statutes by court decisions based on the common law.

In connection with a general law on mining in 1897, a prohibition was inserted against threats, force, and intimidation of workingmen by any person or combination of persons; "but this provision," it was declared, "shall not be so construed as to prevent any two or more persons from associating together under the Knights of Labor, or any other name they may desire, for any lawful purpose, or for using moral suasion or lawful argument to induce any one not to work in and about any mine."[2] In 1903 a case arose under this provision wherein a coal company brought action against organizers of the United Mine Workers for enticing miners, who were employed by the company but not under written contract except in two instances, to quit work. The organizers were legitimately engaged in their regular business of preaching unionism and forming local unions. As is usual when the union sentiment is strong enough, the local made demands and sought recognition of their organization. The fact that two of the men who struck happened to be working under a written contract gave a basis of action under the common law. The lower court refused to grant a remedy to the company, but on appeal the Supreme Court held that the legislature had meant this law to be a criminal act to prevent the malicious enticing of workers from their employers and that it did not prevent the employer from bringing civil

[1] *United Mine Workers' Journal*, April 3, 1902, reprint of the court decision.

[2] *West Virginia Laws*, 1897.

action for damages against the person who enticed the men.[1]

The method by which this conclusion was reached is an interesting phenomenon which the average citizen may well begin to consider in its application to future social, industrial, and political development. To most minds it would seem that the above-quoted words of the law meant what they said — that the provision against force, threats, etc., "should not be so construed" as to prevent "using moral suasion or lawful argument," etc., especially so since the general act and the section of the act in which the clause is introduced is for regulation of general conditions of the industry and not a "criminal" act. After a series of citations thoroughly to prop up the master and servant doctrine of common law, the court applied it to an assumed contractual relation existing between the employer and the miner. The fact that the men were *employed* was assumed to be a contract. "Now, if the law gives action for the enticement of a servant, it is not conceivable that a third person can maliciously entice away a lot of employees, simply because there was no contract fixing term of service." It was not conceivable to the court either that "a party" should "have a justifiable cause to investigate, to move, the breach of contract between master and servant." But what law gives action for "enticement of a servant"? The common law, of course. The state statute did not give any right of action for enticement, but sanctioned it. But the court prohibited the organizers from spreading their doctrines.

As a result of this decision rendered in 1906, the state law remains on the books and permits combination, picketing, and lawful persuasion of men to leave their employment when it is to their interest and the interest of their trade in general. But the legislature in 1907 sanctioned a revised code containing this law with the interpretation

[1] *Thacker Coal Company* vs. *Burke*, 59 West Virginia, 253.

the court put upon it. The union is now subject to a law which says that any person or persons shall have the right to combine and persuade others to leave their employment and yet they are subject to punishment if they "maliciously entice servants to desert the service in which they are engaged . . . nor does it restrict the master's right to sue another for damages resulting from the malicious enticement of the servant."[1] In short, the common law takes precedence over the state statute and makes it ineffective, and it rests with the court to decide what is malicious enticement and to apply punishment therefor.

4. THE BROADER ASPECTS OF THE PROBLEM

A. The Territorial Aspect

Besides the conditions which we have considered above, there is a larger aspect to the West Virginia problem which involves not merely the question of union organization of the State, but the possible continuation of the system of joint agreements at large and a consideration of the development of economic and industrial conditions which are of national importance. In order to comprehend the forces which lie behind the problem, it is necessary to extend our consideration of it beyond the confines of the State of West Virginia. It is a question of control and exploitation of a territory made up of the State of West Virginia, southwestern and central Pennsylvania, Maryland, and the western portion of Virginia. Our chief interest lies in discovering what are the forces that control and direct the policies and the attitude of capital toward labor and threaten the disruption of the joint conference. In order to understand the situation it is necessary to know the extent of concentrated ownership of coal lands, stock ownership by railroads in coal companies and coal lands, and the interlocking directorates which make

[1] *West Virginia Code Supplement*, 1909, p. 60.

it possible for a few individuals to control the natural resources and transportation facilities upon which the economic welfare of a large population depends. The power and extent of these forces were brought out by the findings of the Interstate Commerce Commission in 1907.

B. Investigation by the Interstate Commerce Commission, 1907

By a joint resolution of Congress in 1906 the Interstate Commerce Commission was directed to make an investigation into railroad discriminations and monopolies in coal and oil in the region outlined above.[1] More specifically the Commission was directed to find out the extent of stock holding and ownership in coal properties and mines by common carriers; how far their officers were interested in this ownership; whether there was any conspiracy in restraint of trade; and whether the system of car-supply and distribution was equitable. Any other facts it might consider pertinent and any remedy it could suggest were also to be reported to Congress.

C. Ownership of Coal Lands and Stock

a. holdings of norfolk and western railway

Previous to 1901, 300,000 acres of coal land had been held by the Flat Top Coal Land Association in the Pocahontas Flat Top coal field of Virginia and West Virginia. In that year the Pocahontas Coal and Coke Company was incorporated in New Jersey to take over these coal lands. The Norfolk and Western Railroad Company acquired the stock of the coal company the same year and transferred $20,000,000 of joint bonds of the two companies to the syndicate which put through the deal. At

[1] *Report of Interstate Commerce Commission on the Investigation of the Eastern Bituminous Coal Situation*, 59th Congress, 2d Session, House Doc. 561.

the same time the interest on these joint bonds was guaranteed by the Pennsylvania Railroad Company and the Pittsburg, Cincinnati, Chicago, and St. Louis Railway Company. The Pocahontas Coal and Coke Company up to 1907 had not been able to meet its expenses and pay interest on its bonded indebtedness. The revenue it got from royalties on coal and coke produced on its land by lessees was not sufficient to cover its obligations. The company itself did not mine coal and the deficiency in interest had to be met by the railroads. Since the Norfolk and Western Railroad gets about seventy per cent of its coal traffic from the Pocahontas region, it was worth controlling.

B. WESTERN MARYLAND RAILROAD COMPANY HOLDINGS

By the acquisition of the West Virginia Central and Pittsburg Railway Company and its coal lands in 1902, the control of the Davis Coal and Coke Company, and the purchase of the Maryland Smokeless Coal Company stock in 1905, the Western Maryland Railroad Company acquired control of 138,000 acres of coal land in West Virginia and Maryland.

C. THE BALTIMORE AND OHIO RAILROAD COMPANY

The Baltimore and Ohio Railroad Company carries coal from the bituminous fields in the southern part of Pennsylvania, the western part of Maryland, and the northern part of West Virginia. The Baltimore and Ohio Railroad in 1873 purchased fifty-two per cent of the stock of the Consolidation Coal Company (organized in 1860), which had reached a capitalization of $10,250,000 by 1907 and produced about 2,000,000 tons yearly. Some years previous the Consolidation Coal Company had purchased the stock of the Cumberland and Pennsylvania

Railroad which serves the region in which a large part of the coal company's lands are located. In 1903 the Consolidation Coal Company purchased the majority stock of the Fairmont Coal Company which produces a yearly tonnage of 3,800,000 tons and owns 56,986 acres of coal land. The Fairmont Coal Company at the time of its deal with the Consolidation Coal Company owned the Clarksburg Fuel Company which produced 800,000 tons yearly; the Northwestern Fuel Company which is engaged in the business of forwarding, storing, selling, and retail distribution of coal and coke for Chicago and the Lake markets; and the Pittsburg and Fairmont Fuel Company which shipped 300,000 tons yearly. The Fairmont Coal Company also was engaged in the purchasing of coal from independent operators along the lines of the Baltimore and Ohio Railroad. In 1903 the Consolidation Coal Company also purchased the Somerset Coal Company and the following year bought the Metropolitan Coal Company of Boston which buys, sells, and distributes coal in New England. In 1905 the Southern Coal and Transportation Company, which owned 4800 acres of coal lands in Barbour County, West Virginia, was forced to sell out at a loss to the Consolidation Coal Company because it could not get sufficient car service from the Baltimore and Ohio Railroad.[1] Through its ownership of the West Virginia and Pittsburg Railway Company, the Baltimore and Ohio Railroad is the owner of a large body of coal lands in the Gauley country in West Virginia. "It appears in the record that this company owns directly a very large amount of coal lands." Thus the ownership by the Baltimore and Ohio Railroad of fifty-two per cent of the Consolidation Coal Company's stock gave it control over an immense coal-producing area and placed at its command distributing agencies in New England and in the Lake markets.

[1] *Report of Interstate Commerce Commission to Congress, op. cit.*, p. 11.

During the progress of the investigation the Baltimore and Ohio Railroad informed the Commission that it had made a sale of its stock in the Consolidation Coal Company. But the announcement was made only after the stock ownership of the Baltimore and Ohio Railroad in the coal company and discriminations against other shippers had been developed. The nature of this sale is worth examining. It was described as an absolute sale of the stock to a syndicate of men interested in other coal companies, and gave the railroad a lien on the coal properties for unpaid purchase money; nor could the periodically fixed payments on the stock be completed for thirty years. One provision of the sale required that all coal of the Consolidation Coal Company and its subsidiaries should be shipped over the Baltimore and Ohio Railroad till the purchase money was paid. Both parties refused to state the price at which the sale had been made. After the first payment was made the stock was placed in the hands of the Windsor Trust Company of New York to assure the other payments and the "observance of certain covenants made by the purchasers in reference to the sale." The railroad defended its policy of acquiring stock and control as a "war measure" to prevent the Wabash interests from gaining the ascendancy. The whole transaction failed to deceive the Commission, for it ascertained that the earnings for years had been greater than the dividends and by utilizing the net earnings above the interest on the purchase money the principal could be gradually paid off "without any expenditure on the part of the purchasers." The Commission concluded that the railroad was still "very largely interested in the prosperity of the Consolidation Coal Company and its subsidiary companies." Further, it was discovered that this "sale" could not have been made without the consent of men who, besides being directors of the Baltimore and Ohio Railroad, were also directors of the Pennsylvania Railroad and the New York

Central and Hudson River Railroad Company. But the full significance of this will be seen later.

D. THE PENNSYLVANIA RAILROAD COMPANY

The Pennsylvania Railroad owned the entire capital stock and $4,383,231 of bonds of the Manor Real Estate and Trust Company, whose business is the buying and selling of real estate, and it owned 8899 acres of coal land "more or less" in the various counties. Besides, the railroad had "some interest" in the Walhonding Coal Company on its lines west of Pittsburg and owned the entire capital stock of the Susquehanna Coal Company whose holdings were in the anthracite region.

E. THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY

The New York Central acquired control of the Fall Brook Railroad and the Beech Creek Railroad by lease in 1899 and by purchase of stock in 1910.[1] This gives the Central a line extending from Lyons, New York (on its main line), into central Pennsylvania. It hauls coal out of Cambria, Clearfield, Indiana, Center, and Tioga Counties. The railroad owns the capital stock ($1,000,000) of the Clearfield Bituminous Coal Corporation whose entire product is used by this railroad for fuel. Formerly this coal corporation engaged in commercial coal business. But in 1901, by agreement with the Beech Creek Coal and Coke Company, the commercial coal business was dispensed with. In the same year the New York Central *was given* 5000 shares of the Beech Creek Coal and Coke Company on condition that it furnish ready transportation for 1,000,000 tons of coal mined by the coal company. Four years later the railroad exchanged these 5000 shares for 5000 shares of common stock, 5000 shares of preferred

[1] Official correspondence.

stock, and $500,000 in bonds of the Pennsylvania Coal and Coke Company, which, by taking over the Beech Creek coal and coke properties, became owner of 26,000 acres of coal lands, 3000 acres under lease, 21 mines in operation, and about four fifths of the capital stock of the North River Coal and Wharf Company, which controls "a tidewater delivery point of the Central Railroad of New Jersey, for coal originating on the line of the New York Central and Hudson River Railroad." The railroad also owned fifty-two per cent of the stock of the West Branch Coal Company, a small concern with a capital stock of $50,000 (in 1907).

F. BUFFALO AND SUSQUEHANNA RAILROAD COMPANY

The Buffalo and Susquehanna Railroad Company's activities were confined to the northern central portion of Pennsylvania, and it owned the Buffalo and Susquehanna Coal and Coke Company which had a capital of $1,140,000, and all but $400 of the $100,000 capital of the Powhatan Coal and Coke Company.

G. BUFFALO, ROCHESTER, AND PITTSBURG RAILWAY COMPANY

The Buffalo, Rochester, and Pittsburg Railway Company owned $3,999,500 of the $4,000,000 capital stock of the Rochester and Pittsburg Coal and Iron Company, and the latter company owned a controlling interest in the Jefferson and Clearfield Coal and Iron Company, capitalized at $3,000,000.

H. PITTSBURG, SHAWMUT, AND NORTHERN RAILROAD COMPANY

The Pittsburg, Shawmut, and Northern Railroad Company, through its ownership of the Kersey Mining Company and the Shawmut Mining Company, possessed 28,800

acres of coal lands besides coal lands in Jefferson County that were not in operation.

I. THE ERIE RAILROAD COMPANY

The Erie Railroad Company owned the Northwest Mining and Exchange Company and the Blossburg Coal Company. The production from these concerns was used almost entirely by the Erie for fuel.

J. CHESAPEAKE AND OHIO RAILWAY COMPANY

It was claimed that the Chesapeake and Ohio Railway Company did not own *stock* in any coal properties along its lines, but it acquired the ownership of 28,000 acres of coal land from the Western Pocahontas Coal and Lumber Company. In 1907 the railroad did not penetrate this property and no mining was conducted upon it.

D. Traffic Associations

Chaotic conditions previous to 1895 caused the railroads to form themselves into traffic associations in order to stop the demoralization of freight rates by rebating and to come to some agreement in the allotment of tonnage and the establishment of rates. These associations employed statisticians to determine tonnage, and the various railroads were assigned different percentages. Penalties were provided for the violation of these percentages, but it was found impossible to enforce them strictly. However, the conferences of the associations resulted in the fixing of rates.

A. THE TIDEWATER BITUMINOUS STEAM COAL TRAFFIC ASSOCIATION

The association which controlled the territory we are interested in included the Pennsylvania Railroad, New York Central and Hudson River Railroad, the Baltimore

and Ohio Railroad, the Chesapeake and Ohio Railway, the Norfolk and Western Railway, and the Philadelphia and Reading Railway.

B. OWNERSHIP OF STOCK AND INTERLOCKING DIRECTORATES

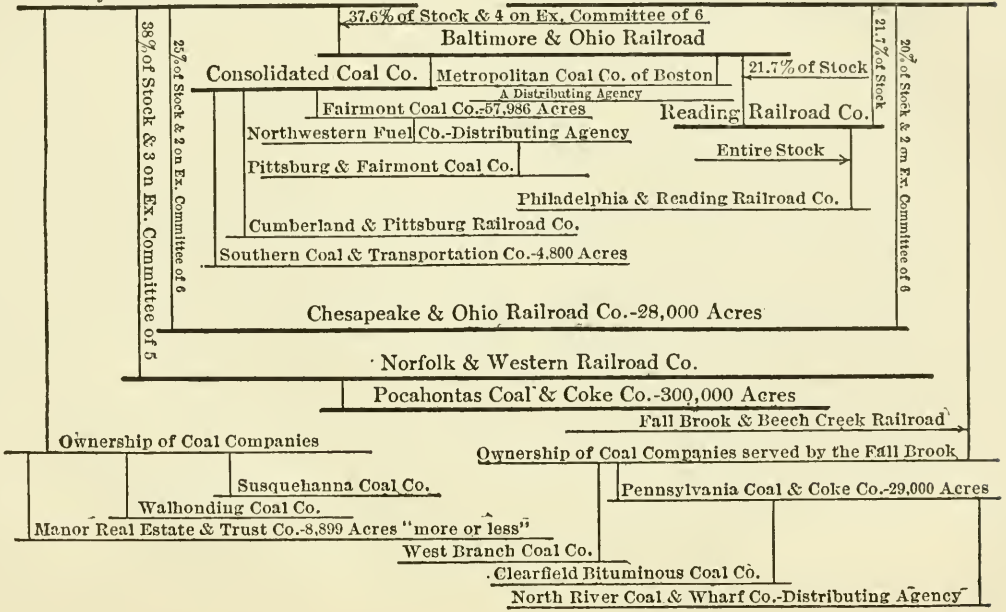
The fact that the association was not effective in fixing allotments and rates led the Pennsylvania Railroad to buy stocks in the Chesapeake and Ohio, the Baltimore and Ohio, and the Norfolk and Western Railway Company in order to act with others in bringing about the desired results. It acquired 38 per cent of the Norfolk and Western stock, 25 per cent of the Chesapeake and Ohio, and 37.6 per cent of the Baltimore and Ohio.

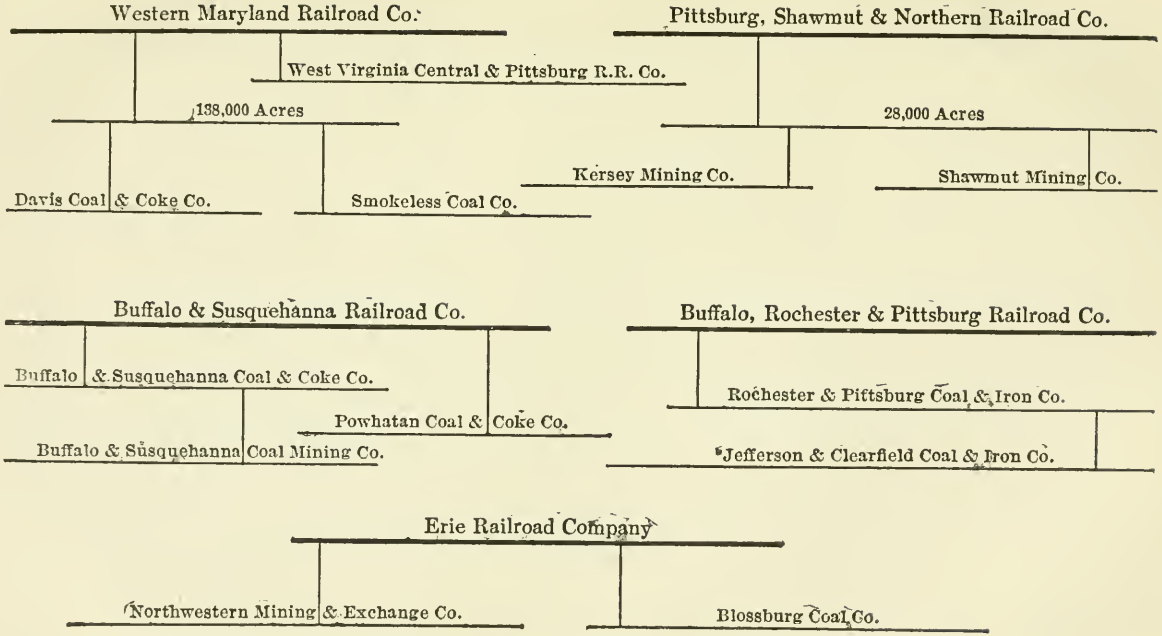
The New York Central acquired 20 per cent of the Chesapeake and Ohio stock, and 21.7 per cent of the stock of the Reading Company, which in turn owned the entire capital stock of the Philadelphia and Reading Company. The Baltimore and Ohio also acquired 21.7 per cent of the Reading Company's stock. Thus the New York Central and Baltimore and Ohio together owned 43.4 per cent of the Reading Company's stock.

At the meetings of the stockholders the minority holdings by combining could control the railroad policies and the Commission was forced "to the conclusion that the practical control of the several railroads mentioned was in the Pennsylvania Railroad Company and the New York Central and Hudson River Railroad Company."[1] In the make-up of executive committees of the boards of directors the full significance of the allied interests is apparent. Of the six members on the Baltimore and Ohio executive committee four were officers of the Pennsylvania Railroad; of the six members of the executive committee of the Chesapeake and Ohio, two were officers of the New

[1] *Report of Interstate Commerce Commission to Congress, op. cit.* p. 46.

Railroad Ownership of Stock, Coal Lands, and Interlocking Directorates in the Central Bituminous Field


Pennsylvania Railroad Co.
New York Central & Hudson River Railroad Co.
37.6% of Stock & 4 on Ex. Committee of 6
Baltimore & Ohio Railroad
38% of Stock & 3 on Ex. Committee of 5
25% of Stock & 2 on Ex. Committee of 6
21.7% of Stock
20% of Stock & 2 on Ex. Committee of 6
Consolidated Coal Co.
Metropolitan Coal Co. of Boston
21.7% of Stock
A Distributing Agency
Fairmont Coal Co.-57,986 Acres
Reading Railroad Co.
Northwestern Fuel Co.-Distributing Agency
Entire Stock
Pittsburg & Fairmont Coal Co.
Philadelphia & Reading Railroad Co.
Cumberland & Pittsburg Railroad Co.
Southern Coal & Transportation Co.-4,800 Acres
Chesapeake & Ohio Railroad Co.-28,000 Acres
Norfolk & Western Railroad Co.
Pocahontas Coal & Coke Co.-300,000 Acres
Fall Brook & Beech Creek Railroad
Ownership of Coal Companies
Ownership of Coal Companies served by the Fall Brook
Susquehanna Coal Co.
Pennsylvania Coal & Coke Co.-29,000 Acres
Walhonding Coal Co.
Manor Real Estate & Trust Co.-8,899 Acres "more or less"
West Branch Coal Co.
Clearfield Bituminous Coal Co.
North River Coal & Wharf Co.-Distributing Agency


Western Maryland Railroad Co.
West Virginia Central & Pittsburg R.R. Co.
138,000 Acres
Davis Coal & Coke Co.
Smokeless Coal Co.
Pittsburg, Shawmut & Northern Railroad Co.
28,000 Acres
Kersey Mining Co.
Shawmut Mining Co.
Buffalo & Susquehanna Railroad Co.
Buffalo & Susquehanna Coal & Coke Co.
Powhatan Coal & Coke Co.
Buffalo & Susquehanna Coal Mining Co.
Buffalo, Rochester & Pittsburg Railroad Co.
Rochester & Pittsburg Coal & Iron Co.
Jefferson & Clearfield Coal & Iron Co.
Erie Railroad Company
Northwestern Mining & Exchange Co.
Blossburg Coal Co.

York Central and two were officers of the Pennsylvania Railroad; and of the five members of the executive committee of the Norfolk and Western Railroad, the Pennsylvania Railroad controlled three.

The diagrams on pages 88 and 89 make these facts stand out more strikingly than words can portray them. We must remember also that this is the minimum amount of information in regard to the situation. In many cases the Commission made no pretense of giving the extent of landholdings of companies which the railroads owned or in which they held a partial or controlling interest. These facts make us realize that the same process is going on and the same policy being pursued which has directed developments in the anthracite field.[1] Furthermore, we have no knowledge of how close the relationship is between the big railroads and the smaller ones whose holdings are shown on page 89. Of this we may be sure — the railroads meant not only to assure themselves of traffic, but they proposed to gain the ownership of the resources of the region and to direct so far as possible the policies which should govern them.

[1] Since the investigation by the Interstate Commerce Commission in 1906 the railroads have been carrying on a process of consolidation by purchase and ownership instead of control through majority stock ownership or combination of minority holdings. The Pennsylvania Railroad divided its holdings in the Baltimore and Ohio Railroad between the Pennsylvania Company (a holding company) and its other companies, and by July, 1913, its interests amounted to $42,547,200 of preferred and common stock in the Baltimore and Ohio, or twenty-one per cent. (See *Moody's Manual*, 1914, p. 1369.) In July, 1913, the Pennsylvania Railroad traded its holdings in the Baltimore and Ohio for $38,292,400 of Southern Pacific stock held by the Union Pacific Company. (See *Moody's Manual*, 1914, p. 103.) A mere transfer of landlords is not apt to change the policy in respect to concentration and control. Moreover, the Pennsylvania Railroad has surrendered none of its control of the coal lands in possession of the Norfolk and Western, for its percentage of the stock of that road has risen from thirty-eight to forty-three per cent.

E. Direction of Policy toward Labor

If these interests were able to control the general policies affecting the common carriers and natural resources in regard to prices and rates, they were also able to direct the policy of capital toward labor. Under these circumstances the real powers with which labor has to contend, whenever it attempts to disturb prices, become apparent. We must remember that it is not merely the coal companies owned and controlled by the railroads which are subjected to the all-pervasive influence of the railroads, but the so-called independent companies, in spite of themselves, in their attitude toward labor, must conform to the wishes of the powerful railroad officials. No matter how willing an independent operator may be to grant concessions to his men, it becomes an impossibility if the coal and railroad corporations decide to crush unionism and establish wages and working conditions which go with individual bargaining. The independent operator cannot compete under such circumstances and he must fall in line with the general policy of the bigger concerns in order to exist. The large corporations, which are able to establish a régime of individual bargaining over a large section of the most valuable coal fields, stand as a constant menace to all the fields which are willing to enter a joint agreement to establish uniformity. Besides the differential which this region has, because of its better natural advantages and resources, the opportunity is always present under individual bargaining to exploit the individual laborer to almost any extent within the limit of subsistence wages in order to keep just under the prices of the union fields.

F. Westmoreland County Strike, 1910–11

If we are disposed to question this power and the policy of crushing all opposition, we have but to refer to

recent events in Westmoreland County, Pennsylvania (a county dependent on the Pennsylvania Railroad and its branches), and in West Virginia. In Westmoreland County we find a working force, seventy per cent of whom are foreigners,[1] struggling for over a year to obtain collective bargaining, only to be defeated by the resources which large corporate wealth had at its command.

A. CAUSE AND SPREAD OF THE STRIKE

For twenty years the condition in this county had been a bugbear to the collective agreement in the Pittsburg district. The miners' leaders were always confronted with the statement that competitive conditions in Westmoreland made it impossible to grant concessions. All efforts of the United Mine Workers to organize the county by employing organizers had failed. Finally, in March, 1910, the company charges for "permissible explosives" (safety explosives) and safety lamps brought the men of one company together to discuss their grievances. As soon as the company officials learned that the men had sent a delegate to the United Mine Workers to obtain an organizer and that a union was being formed, the unionists were discharged.[2] The men demanded the reinstatement of those victimized. With a refusal from the company the fight was on. Within a month the strike had become general in the Greensburg, Irwin, and Latrobe Basins, involving 10,631 men out of 15,537.

B. OPERATORS' TACTICS

Then the companies began all the tactics usually employed to defeat the worker. Unskilled strike-breakers

[1] *Report on the Miners' Strike in Westmoreland County, Pa.*, 1910–11, prepared under the direction of C. P. Neill, Commissioner of Labor, 62d Congress, 2d Session, House Doc. 847, p. 108.

[2] The law of 1897 prohibiting interference with employees for connection with a labor union and providing penalties was declared unconstitutional in 1900. *Ibid.*, p. 46.

were imported at higher wages than the regular men demanded, with resulting increase of accidents and loss of life.[1] The strikers were evicted from the company houses and the United Mine Workers sheltered them in camps on leased ground. The ever-ready injunction prohibited the men from marching on the public highways to stir up enthusiasm and gain adherents.[2] State coal and iron police, deputy sheriffs, deputy constables, and state police made up the small army of men which protected the properties. The state coal and iron police were commissioned by the governor at the request of the companies, and paid by the companies. The state police were a body of mounted men belonging to the state constabulary. The deputies were made up of outsiders furnished by the sheriff to the companies according to contract at a rate of from four to five dollars per day. When the sheriff sent deputies with warrants to arrest some non-unionists employed by the companies who were alleged to have fired upon the strikers, the deputies were arrested for trespass by coal and iron police employed by the companies. They were taken before a justice of the peace and sentenced to ten days' imprisonment. The sheriff refused to imprison his deputies and later was tried for this offense by the Court of Quarter Sessions and sentenced to thirteen months in the penitentiary. This charge and one for embezzlement of fees the sheriff claimed were instigated by the companies because of a disagreement over the amount of profit he was to make out of furnishing deputies.[3]

[1] An increase of twenty-one fatal accidents above normal years. *Report of Miners' Strike in Westmoreland County, Pa.*, 1911, *op. cit.*, p. 14.

[2] The miners obtained a modification of the injunction in order to attend the funeral of a comrade in a body. Their march took them over a highway leading through a coal company's property. Before the officials of the company and their hired police would honor the modified writ, the men were compelled to furl their American flags and carry them with staffs pointing downward. *Ibid.*, p. 62.

[3] *Ibid.*, p. 21.

Seven companies filed suits against the union officers for damages amounting to from $200,000 to $500,000 for each company. They were charged with conspiracy, intimidation, violence, and general lawlessness. This raised such a furor among organized labor in all industries that the suits were not pressed.

C. REFUSAL TO ARBITRATE

Offers to arbitrate, by the men, and attempts at mediation by the Pittsburg Chamber of Commerce were without results. Appeals to the governor brought the response that he had no power to investigate the situation or remedies to offer. The union spent $1,064,865 in supporting the miners, but finally declared the strike off in July, 1911. As a mere test of strength and resources the union was fighting against too great odds.

G. The Strike of 1912 in West Virginia

When we turn our attention to the recent troubles in West Virginia we find many conditions similar to those which were present in Pennsylvania. In West Virginia the ill-feeling developed into actual warfare between the contending parties. In the early part of this chapter we found that the union had gained a foothold in the Kanawha district in 1902, but since that time no headway had been made in organizing the State.

The trouble in the Kanawha field began in April, 1912, and after a ten days' strike an agreement was made with all the field except Paint Creek. But the trouble at Paint Creek soon spread to Cabin Creek and New River, both non-union fields. In the background of the immediate or surface causes for discontent stood the larger economic and geographical factors which influenced the viewpoint of the operators and encouraged them to assume an arbitrary attitude toward what they regarded as insurmountable difficulties. The geographical situation of West Vir-

ginia, which leaves the West Virginia operator farthest from the Lake market, led him to assume that a fair adjustment of differentials between the State and other States could not be worked out in the joint conference of the central field.[1]

Until a little more than a year ago the operators in the Pittsburg district had a differential in freight rates over the West Virginia operators of 9 cents on a ton. Pressure from the Pittsburg operators upon the railroads brought a joint meeting of railroad officials, Pittsburg operators, and West Virginia operators in an attempt to settle upon satisfactory rates.[2] The parties could not agree, but the railroads raised the rates on the West Virginia coal $9\frac{1}{4}$ cents per ton, which gave the Pittsburg district a differential of $18\frac{1}{4}$ cents. As the result of an appeal which the West Virginia operators carried to the Interstate Commerce Commission the rates were suspended, but later the Commission ordered a decrease of 10 cents per ton on the existing rates from the Pittsburg district, which gave it a differential of 19 cents.

Because of this differential the operators on Cabin Creek and Paint Creek claimed they could not pay the union scale which went into effect in the Kanawha district, but "even with the differential spread to 19 cents, they are shipping coal as fast as they can mine it."[3]

The Paint Creek miners were organized, but they received information that their operators would not sign the union scale for another year and that they would insist on conditions similar to those in vogue in the unorganized Cabin Creek district. This forecast proved correct, and the Paint Creek operators withdrew from the Kanawha Operators' Association.

[1] *Report of Senate Committee Hearings*, *op. cit.*, part 1, p. 962.

[2] *Ibid.*, part 2, p. 1880.

[3] West, "The Civil War in the West Virginia Coal Mines," *The Survey*, April 5, 1913, p. 40.

The issues which weighed most heavily with the miners are expressed in their formal demands:—

Abolition of the mine guard system.

A reform in the system of docking used (which deducted as high as 1000 pounds for impurities).[1]

The employment of checkweighmen on the tipples to represent the miners and to be paid by the miners. The law provides for these checkweighmen, but this law is ignored by the coal companies.

Permission for the men to trade where they please without discrimination against them for so doing.

The payment of wages in cash every two weeks and not in script or credit cards.

Improved sanitary conditions, with the requirement that the companies remove garbage and keep the houses in good condition.

Payment for mining coal on the basis of the short ton, on which the coal is sold, and not on the basis of the long ton, on which it is at present mined.

Rentals of houses based on a fair return on their cost with allowance for upkeep and electric lights on the same basis.

The nine-hour day [the men now work ten hours].

Recognition of the union.

An increase in pay.

It is significant that the abolition of the mine guard system stands at the head of the list. When the Paint Creek operators refused to pay the union scale, the mine guards were brought in and the war was on. The strike spread through Cabin Creek and the struggle developed into a fight for supremacy and to settle old scores between the mine guards and the miners. In order to appreciate the part which the mine guards have played, we have but to recall their function in maintaining the régime of peonage, landlordism, and "union smashing." Former Governor M. O. Dawson said in his special message to the legislature of 1907 in response to complaints of peonage from the

[1] *Report of Senate Committee Hearings, op. cit.*, part 1, p. 951.

Italian ambassador, which had been brought to his attention by Secretary of State, Elihu Root: —

> The use of mine guards in this state is not restricted to cases like these under investigation. They are used at some of the collieries to protect the property of owners, to prevent trespassing, and especially to prevent labor agitators and organizers of a miners' union from gaining access to the miners. . . . Many outrages have been committed by these guards, many of whom appear to be vicious and dare-devil men who seem to aim to add to their viciousness by bull-dozing and terrorizing people. It is submitted in all candor that it is not to the best interests of the owners of these collieries to employ such lawless men or to justify the outrageous acts committed by them.[1]

The commission appointed by Governor Glasscock in August, 1912, expressed similar sentiments: —

> From the cloud of witnesses and mass of testimony figuring in the hearings, there emerges clearly and unmistakably the fact that these guards . . . recklessly and flagrantly violated, in respect to the miners on Paint Creek and Cabin Creek, the rights guaranteed by natural justice and the Constitution to every citizen howsoever lowly his estate. . . . Many crimes and outrages laid to their charge were found upon careful sifting to have no foundation in fact, but the denial of the right of peaceful assembly and of freedom of speech, [the] many and grievous assaults on unarmed miners, show that their main purpose was to overawe the miners and their adherents and, if necessary, to beat and cudgel them into submission. We find that the system employed was vicious, strife-prompting, and un-American.[2]

These statements were further verified by the testimony given before the Senate investigation committee. At that time men testified that they were imported to become "strong-arm" men,[3] and it was shown that the Baldwin-Felts Detective Agency furnished guards and sent secret

[1] Quoted by West, *op. cit.*, p. 49.
[2] *Report of Senate Committee Hearings*, *op. cit.*, part 1, p. 380.
[3] *Ibid.*, p. 85.

spies among the miners to report on their movements,[1] provided blacklists,[2] and sought to prevent the organization of the union.[3] A special train was fitted up with a machine gun and armed men who fired into the miners' camp as the train passed by.[4] Additional testimony by men imported from New York brought out the fact that they were kept in locked cars and under guard from the time the train left New York State until they were landed in West Virginia.[5] Such activities show the abuses which can arise under the guard system.

The ill-feeling between the miners and the guards had progressed to such a degree that thorough preparations for warfare were made by both sides and pitched battles were fought. The leaders of the miners urged the governor to declare martial law, but not until a request for troops came from the county sheriff on July 26, 1912, was the governor in a position to take a hand in the matter. The state law made it necessary for the governor to wait till the local officers requested aid before he could interfere, and the commission appointed to investigate the situation could not refrain from recording its judgment that the local peace officers "exhibited a woeful lack of resolution and energy in enforcing law and order."[6] A few companies of troops were sent to aid the sheriff, and finally the entire state militia was stationed in Cabin Creek and Paint Creek prior to the first declaration of martial law on September 2.

Feeling over the issues involved had arisen to such a pitch that it was undoubtedly impossible for the civil authorities to cope with the situation. During August the miners kept up an agitation and held mass meetings in protest against the guard system and the importation of non-unionists. The governor invited the operators and

[1] *Report of Senate Committee Hearings*, *op. cit.*, part 1, p. 856.
[2] *Ibid.*, p. 863. [3] *Ibid.*, p. 864. [4] *Ibid.*, part 2, p. 1642.
[5] *Ibid.*, part 1, p. 694 *ff.* [6] *Ibid.*, p. 386.

miners each to appoint two members on a commission which should undertake a state-wide investigation of the coal industry, but as that was not done, he finally, in the latter part of August, appointed a commission of three which made an extended inquiry into conditions.

Along with the declaration of martial law on the 2d of September a military commission was placed in power. The militia confiscated 2354 rifles and pistols, 6 machine guns, and over 178,000 rounds of ammunition of various kinds.[1] State statutes and constitutional provisions were laid aside and the commission punished at its discretion regardless of statutory penalties.[2] The findings were not divulged until the governor had passed upon them. The governor explained that it was understood between the commission and himself "that it was not the intention that these people should be required to serve the time for which they were apparently sentenced. We used that practically for the purpose of detaining these people until we had peace and order in that territory."[3] However, this did not prevent the militia from arresting the local justice of the peace, (seemingly) unwarrantedly detaining him[4] and in aiding the guards in bringing in non-unionists.

When the miners realized that martial law meant punishment for "unlawful assemblage" and brought with it trial by military commission, they appealed to the courts, but without avail. A judge of the county court, who issued a writ of *habeas corpus* on the theory that the defendants had a right to trial by jury, later "reversed his opinion and decided that [he had] 'no right to interfere with a court martial duly organized under the laws of a State'; and at the same time the West Virginia Supreme Court of Appeals upheld the governor's right to declare martial law and to appoint a military commission."[5]

[1] *Report of Senate Committee Hearings, op. cit.*, part 1, p. 80.
[2] *Ibid.*, p. 164. [3] *Ibid.*, p. 398. [4] *Ibid.*, p. 493 *ff.*
[5] *Literary Digest*, April 5, 1913.

Five union leaders who were brought before the military commission refused to put up any defense to a charge of conspiracy to murder, with the hope that their counsel would thus be able to carry the case by appeal to the United States Supreme Court and there establish whether the civil law can be suspended and trial by jury superseded by court martial. The defendants based their appeal upon the following clauses of the West Virginia constitution: —

> The military shall be subordinate to the civil power; and no citizen, unless engaged in the military service of the State, shall be tried or punished by any military court for any offense that is by the civil courts of the State . . .
>
> The provisions of the Constitution of the United States and of this State are operative alike in a period of war as in time of peace, and any departure therefrom, or violation thereof, under the plea of necessity, or any other plea, is subversive of good government, and tends to anarchy and despotism.

On September 11 the governor received a copy of a letter addressed to the operators by the international vice-president and the district president, asking for a conference to try to effect "an honorable and fair settlement." The good offices of the governor were sought to bring about such a conference. In complying with the request the governor reminded the operators that no law existed in West Virginia which would permit his appointing a board of arbitration whose decision should be final, appealed to their patriotism to "save life and property," and earnestly pleaded with them "to make some suggestions and use your best efforts to end this struggle, which we all admit is a disgrace to our State." [1]

In response to the governor's appeal the operators informed him that they declined to meet the representatives of the miners because they were "convinced that no good could result from a conference." They reminded the gov-

[1] *Report of Senate Committee Hearings*, *op. cit.*, part 1, p. 520.

ernor that the United Mine Workers had been trying "for twenty years or more to 'organize' West Virginia in response to the insistent demands of the operators of the 'organized' districts. If we were to admit, which we are unwilling to do without more convincing evidence than has yet been presented to us, that the officers of the United Mine Workers of America in good faith would endeavor to put wages in the field on a fairly competitive basis with those in other fields, we believe they could not resist the pressure brought upon them by the interests of the competitive fields."[1] Furthermore, the operators had steadily resisted the United Mine Workers, "with the sympathy, we believe, of a great majority of the miners, who have no wish to see union conditions with the consequent hardship upon all the interests of this State." And again, "We repeat that there has never been any demand, formal or informal, made upon us for higher wages or any different conditions of employment or living than are now in force at our mines." They were also convinced that if proper protection could be given their men who had ceased work they would return, and the United Mine Workers as the "persistent and malignant foe to the prosperity of the coal industry of the State . . . should be taught that such methods [of carrying on war] will not be tolerated."

On September 14 the representatives of the parties came to the capitol at the governor's invitation, but assembled in separate rooms. The governor submitted a plan of arbitration to both parties, which involved the selection of a representative by each side and the third member "by the governor of one of the adjoining States or by the Secretary of the Department of Commerce and Labor." The system of mine guards was to be abandoned and only *bona fide* citizens employed as watchmen or guards. If the miners would return to work on the terms under which they had been working, the decision of the arbitrators was

[1] *Report of Senate Committee Hearings, op. cit.*, part 1, p. 522.

to go into effect from September 1, 1912. The arms still held by the parties in the strike zone were to be turned over to the military commander and the governor offered to pay for the expense of arbitration from his contingent fund.[1]

The miners were willing to accept this plan in spite of the fact that they would have liked to change some of its provisions, "but by doing this we realize the proposition would not be yours, and since we believe you have only the interests of both parties to this unfortunate controversy at heart and in the interest of peace and harmony as well as the public good, we agree."[2]

To meet the operators' criticisms on technicalities the governor submitted a revised plan limiting the range of the arbitration to the guard system, the right of the individual to belong to a union, and the right of the employees to meet their employers to discuss wages and conditions of labor. The decision should involve only the Paint Creek, Cabin Creek, and Coal River operators, and the agreement of arbitration should be signed by representatives of both union and non-union men.

The miners accepted this second proposition, but the operators refused on the basis of their right to protect their property and employees and because of their determination not to recognize the union in any way.[3]

On October 15, 1912, martial law was revoked, but by November 15 the governor found it necessary to put it in force again. It was again "lifted" on December 12, but the adjutant-general was directed not to make it public with the hope of keeping peace "by simply leaving the impression" that martial law was in force. In the early part of February another battle took place in which about sixteen persons were killed and the governor sought the advice of the legislature which indorsed his action in declaring martial law again.[4]

[1] *Report of Senate Committee Hearings, op. cit.*, part 1, p. 521.
[2] *Ibid.*, p. 521. [3] *Ibid.*, p. 528. [4] *Ibid.*, p. 396 *ff.*

When Governor Hatfield came into office in March, 1913, martial law was still in force. He made a determined effort to restore law and order, and finally, on April 25, practically issued an ultimatum that the "strife and dissension must cease within thirty-six hours" and the following terms for a settlement which he suggested were accepted: —

First, the operators were to agree to allow checkweighmen to act for the miners "as indicated and in keeping with sections 438–439 of the code."

Second, a nine-hour day, which should be understood as nine hours of actual service, "at the same scale of wages now paid."

Third, "that no discrimination be made against any miner, and that if he elects he may be permitted to purchase the supplies for the maintenance of his family wherever it suits him best, as this was claimed by the operators to be the case at the present time. It is hoped by the chief executive that it will be the pleasure of the mine operators who own and control commissaries to see that the prices of their merchandise are in keeping with the same prices made by independent or other stores throughout the Kanawha Valley."

Fourth, that the operators grant a semimonthly pay.

The governor proposed to see that the above conditions were carried out, and "where the law is not now explicit to have the same so amended as will secure in the future the carrying out of the suggestions I have made."[1]

By the middle of July the Paint Creek operators and miners were working under a formal agreement which provided for the same working conditions existing in the unionized Kanawha field, except that the Paint Creek miners had gone to work for two and a half cents per ton less than their former scale. The Cabin Creek operators, in their settlement the latter part of July, refused to permit the "check

[1] Quoted by *Literary Digest*, May 10, 1913.

off" for dues or to allow representation of the men by a mine committee. The individual had to deal with the mine foreman and superintendent or manager. If grievances were not settled, then the miner might appeal to his local president, who could ask for an arbitration committee made up of a representative selected by the miner, one by the operators, and a third selected by these two, if necessary. A majority decision was made binding on either party.[1] The Cabin Creek operators refused to make an agreement with the United Mine Workers, and the settlement was made with representatives of their employees.

The agreement made between the New River operators and other operators along the Virginian Railroad (representing in all an ownership of ninety mines) and their employees not only included the provisions demanded by the governor, but also provided for a commission of four — two representatives from each side — to settle disputes by majority decision. In case of failure to obtain a majority decision, the governor as umpire must give the deciding vote.[2] Decisions must be rendered within ten days and in the mean time the men must remain at work. In regard to their attitude toward union organization, the following statement is made: "It is not within our province to question the right of any man which the laws of nature or the statutes of State or nation concede him, and it is not a question for arbitration or consideration; if the stipulations above submitted are agreed and lived up to, it seems to us that no questions of dispute will arise, and one that will be given no consideration as far as we are concerned. Nothing more could of right be demanded if the principles included in the above propositions are carried out." This was supplemented by a promise to "eliminate anything in the shape of the old guard system."

[1] *Memorandum of Agreement between Cabin Creek Operators and their Employees*, 1913, p. 2.

[2] *Memorandum of Agreement of New River Coal Operators (and others) with their Employees*, 1913, p. 5.

The territory now unionized includes eight counties in the central part of West Virginia, which is about one third of the mining district of the State.[1] The union leaders say that they do not anticipate any trouble in renewing their agreements, and they probably hope soon to see the whole State organized and representatives of both sides meeting with the joint conference of the central field. The fact that such a large percentage of the State is working under certain regulations as to hours, company stores, checkweighmen, etc., ought greatly to encourage further spread of the joint agreement. The influence of the operators working under these regulations ought to weigh heavily in the movement to reduce the unfair competitive conditions.

In answer to the operators' arguments that fair competitive conditions between West Virginia and the other States could not be established in the joint conference of the central field, the miners reply: —

> We have made it clear to both sides [northern operators and West Virginia operators] that it is not our intention to unionize these fields for the purpose of strangling competition with the operators in the Northern States, nor to establish prohibitive wages and conditions, viewed from a competitive standpoint, that will keep their product out of its most favorable market. It is needless to say that if we adopted such a short-sighted policy it would act as a boomerang and would hit our cause and the men we organize harder than it would the operators, inasmuch as it would greatly limit the output of these fields, deprive the men of work, and cause them more hardship than they now suffer. Such, of course, is not our intention, all reports and wild statements to the contrary notwithstanding, and in the making of any wage scale these economic facts must and will be taken into consideration. Every mining district in the country has a natural market and an inherent right to the same, and we are well aware of the peculiar geographical location of those particular fields, and in dealing with this complex problem we fully

[1] Official correspondence.

realize that we are face to face with a condition and not a theory, and must meet it with reason and intelligence, and with the sincere desire to be constructive and not destructive, to build up and not tear down, until, at last, in the evolution of things, now being hastened by intelligent, world-wide discontent, universal coöperation shall supplant the present inefficient system of competition, with all its waste, brutality, and utter disregard for the higher and nobler phases of our common life.[1]

And the president of the union in testifying before the West Virginia Mining Commission in 1912 pointed out that the formation of contracts involves consideration of freight rates, market conditions, and physical conditions in the mines in arriving at an equitable price which will permit all the fields to get their proper share of the market.[2]

But it is estimated that in Virginia, West Virginia, Maryland, Kentucky, Tennessee, and Alabama approximately 150,000 miners are unorganized and "utterly helpless in meeting the encroachments of organized wealth" under a régime of individual bargaining.[3] Moreover, this leaves out of account the unorganized men in southeastern and central Pennsylvania, and the miners realize that the fate of the joint agreement is dependent upon their success in thoroughly unionizing the coal industry.

In chapter I we have shown how the system of conciliation and arbitration arose, pointed out the economic and social factors which underlie such development, and described the methods by which the joint agreement has been extended. In the midst of the process of the extension, the West Virginia problem loomed up as the most threatening factor for disruption of the system thus built. We have seen the significance of the geographical location of the State, the importance of its wealth in coal, and the effect

[1] *Report of Vice-President of the United Mine Workers*, 1912, p. 5.
[2] *Report of Senate Committee Hearings, op. cit.*, part 3, p. 2175.
[3] *Report of Vice-President of the United Mine Workers*, 1912, p. 4.

of longer hours and adverse working conditions. Along with such factors as immigration and a conservative rural population stands the concentration of wealth and a determination on the part of the owners thoroughly to control and direct the exploitation of the natural resources. The importance of these considerations must be held in mind as we turn to make a further study of the conciliatory system and the organization of the parties which make the system effective.

CHAPTER III

THE UNITED MINE WORKERS OF AMERICA

We have reserved the consideration of the organization and development of the United Mine Workers and of the Operators' Associations for chapters III and IV, in order to present to the reader the effective forces which stand behind collective bargaining in the interstate joint conference. One cannot appreciate the real power behind the armed neutrality of nations without an understanding of their fighting equipment and natural resources. Neither can one conceive of the significance of industrial forces making for peace without a knowledge of the machinery of organization and the methods by which effective solidarity is attained. The effectiveness of an organization must be kept at a maximum quite as much in peaceful times as in those of strife, in order that their agreements may be loyally carried out. To understand how 400,000 men are held in line in times of peace, induced to conform to the laws during strikes, and taught to exercise the might of non-resistance and inactivity, one must have a knowledge of the technical features of organization that have secured a unity of action in industrial democracy not attained in political democracy. When we consider that, besides the difficulty of holding a widely scattered membership to a continuous policy, there are added the disruptive factors involved in the fact that twenty different nationalities and several races are concerned, the difficulty of the problem of organization is apparent. We shall describe the United Mine Workers' organization as controlled by the constitution of 1912 which presents a great contrast to the loose federations of the sixties and eighties. We shall find that every phrase of the preamble to the

mine workers' constitution recalls concrete industrial problems with which the organization has to cope.

1. PURPOSES OF THE ORGANIZATION

The purposes of the organization are thus set forth in the constitution: —

There is no truth more obvious than that without coal there could not have been such marvelous social and industrial progress as marks present day civilization.

Believing that those whose lot it is to toil within the earth's recesses, surrounded by peculiar dangers and deprived of sunlight and pure air, producing the commodity which makes possible the world's progress, are entitled to protection and the full social value of their product, we have formed the "United Mine Workers of America" for the purpose of establishing, by lawful means, the principles embraced in the body of the constitution.

First. To unite in one organization, regardless of creed, color, or nationality, all workmen eligible for membership, employed in and around coal mines, coal washers, and coke ovens on the American Continent.

Second. To increase wages and improve the conditions of employment for our members by legislation, conciliation, joint agreements, or strikes.

Third. To demand that not more than eight hours from bank to bank in each twenty-four hours shall be worked by members of our organization.

Fourth. To strive for a minimum wage scale for all members of our craft.

Fifth. To provide for the education of our children by lawfully prohibiting their employment until they have reached at least sixteen years of age.

Sixth. To secure equitable statutory old age pension and workmen's compensation laws.

Seventh. To enforce existing just laws and to secure the repeal of those which are unjust.

Eighth. To secure by legislative enactment laws protecting the limbs, lives, and health of our members; establishing our right to organize; prohibiting the use of deception to secure strike-

breakers; preventing the employment of armed guards during labor disputes; and such other legislation as will be beneficial to the members of our craft.

2. UNITS OF ORGANIZATION

A. International

The jurisdictional units of the organization are divided into international districts, subdistricts, and local unions. There are twenty-five districts, fifty subdistricts, and twenty-four hundred local unions.[1] The international union has jurisdiction over all the other units and derives its name "international" from the extension (in 1905) of the jurisdiction of the United Mine Workers to the mine workers of Canada. In all questions of dispute, appeals, and grievances under the constitution, the jurisdiction of the international organization is limited only by the terms of the joint agreement, and the decision of the international executive board is final unless reversed by the action of the international convention.[2]

B. Districts

The districts are designated by the international officers and may encompass two or three States, a whole State, or part of a State, according as varying conditions or the extent of the territory may warrant. For example, in Pennsylvania the anthracite region is divided into three districts and the organized portions of western and central Pennsylvania are divided into three districts. In the southwestern field a district may include two or three States. Farther west, District 15 includes Utah, Colorado, and New Mexico. The districts are allowed to adopt such rules and regulations as do not conflict with the jurisdiction of the international organization or the terms of the joint agreement.

[1] Official correspondence.

[2] *United Mine Workers' Constitution*, 1912, Article III.

C. Subdistricts

If the conditions warrant the arrangement, the districts may be divided into subdistricts, but not until the officers of districts and local unions which are affected have been consulted and the accounts of locals with the district, comprising taxes and assessments, are settled. Subdistricts are necessary only in States having a large coal area and a large working force, and they are organized to facilitate prompt settlement of disputes. The officers of a State like Illinois, with large coal fields and 75,000 men, could not be expected to cope with all the demands made upon them. The rules of the subdistricts must conform to the rulings of the jurisdiction above, but the subdistrict unit makes possible certain regulations which it is unnecessary to impose on the whole district.

D. Local Unions

a. jurisdiction

The local union is the unit upon which the other jurisdictions are built. It is subject to all the rulings of the jurisdictions above, but withal it has a great deal of power in dealing with its own affairs. In fact it has all the autonomy which it has not been found necessary to delegate to the jurisdictions above. In chapter I we described the period during which the functions and powers of the local were accentuated to the neglect of the welfare of the industry as a whole. That the jurisdictions above have received their power has been the result of pressing necessity, and to enable the organization to cope with the many problems of the industry. A local union is allowed jurisdiction over only one mine.

b. democratic features

The locals are democratic in their form of government and procedure, and it is here that the individual is made

to feel the spirit of unionism which binds the men together. Besides the acquaintances and friendships formed as working comrades, they gain a higher estimate of one another as they study and discuss their common industrial problems. Here native ability, character, and the efforts at self-education reap their full fruits and are judged on their merits. The immediate problems of industry lead to a consideration of the wider problems of citizenship. These local organizations stand as a potent influence for the encouragement of political and industrial democracy. By the use of the referendum the average individual is able to express his judgment on the policies that shall govern an industry, and here, as elsewhere, the man who is in immediate contact with the problem is in a better position to recognize the need for a remedy than the one who is farther away and who has not felt the pressure of necessity.

C. LOCAL AND INDIVIDUAL GRIEVANCES

Strikes and difficulties over working conditions usually originate in local unions. The man who is mining coal is the first to feel the effect of adverse conditions, and fortunately he has a means of rectifying matters without being subjected to the pressure which comes with the expression of dissatisfaction under a régime of individual bargaining. It is the duty of the local officials to bring about an amicable settlement with the employers if possible, but if not, the district and international officers are called in. These jurisdictions may reverse the action of the local officials, but the latter, in turn, if dissatisfied with the decision, may appeal the case until it reaches the highest authority, the international convention. If the local union continues to strike in spite of a ruling of the international jurisdiction forbidding the strike, not only may it be denied financial aid, but it may be suspended or have its charter revoked.

The local has full power to penalize or debar members, but the individual is protected, through the right of appeal to the international jurisdiction, against malicious action on the part of a coterie of men. If it is found that any branch of the union has done an injustice to a member or applicant for membership, the branch responsible for this injustice has to compensate the individual for his time and the expense incurred in defending his rights, and the member or applicant is restored to all rights and privileges of the organization.

D. MEMBERSHIP

A local union cannot have fewer than ten members, and they may be composed of skilled and unskilled men working in and around the mine. No distinction is made on the basis of race, color, or nationality. Mine officials, operators' commissioners, persons selling intoxicating liquors, and members of the National Civic Federation or Boy Scout Movement are ineligible to membership. The insertion of the provision against members of the Civic Federation in 1911 was evidently aimed at Mr. John Mitchell, former president, and to test his loyalty to the miners' organization.[1] The Boy Scouts were debarred from membership because at the time of the convention the delegates were under the impression that the movement was a "first step towards militarism," and they "felt they were justified in their action from past experience with an organization of a military character." The miners have since been informed of the real nature of the movement.

By a system of transfer cards members in good standing find a welcome when they move from one district to another. The issuing of these cards is strictly regulated and violation of the regulations subjects the offenders to severe

[1] Mr. Mitchell proved his loyalty by resigning from a position in which he was doing exceedingly good work. He deserves better treatment for the extremely valuable services he rendered the organization.

penalties. When a local union is organized by an organizer or any other official, it pays a fee of $8 to the international union, which in turn supplies it with full equipment of charter, seal, books, cards, etc., for conducting its business. An organizer must report the organization of any local within a week and send the international fee or show valid cause for delay. The initiation fee is $10 for skilled miners and $2.50 for boys from fourteen to seventeen. Members who forfeit their membership by working in non-union mines or by arrearages in dues can only be reinstated by paying another initiation fee.

E. FINANCES

The local dues paid by each member are fifty cents per month plus such other assessments as are levied by the jurisdiction above. The local union as an organization is made responsible for a tax of twenty-five cents per month per member and such other assessments as are levied by the international convention and referendum vote. The extent to which this provision enabled the organization to rise to an emergency was exemplified in the anthracite strike of 1902 when each member contributed an average of $7 to $16 in four months with a total collection of $2,645,324.[1] Boys under sixteen and decrepit or disabled members are classified as half members and are taxed one half the regular dues.

The local financial secretary is responsible for a monthly report on all members in good standing and a statement of taxes and assessments due the international organization. Locals which fail to fulfill this obligation are notified by the international secretary, and if he receives no response within ten days the local is suspended from membership and its name is published in the delinquent list. Once on the delinquent list, it can only be reinstated by payment of arrearages and a fine of $2 for each one hundred mem-

[1] Mitchell, *Organized Labor*, p. 379.

bers. Local officers entrusted with funds are required to give bonds, and for failure to perform their duties they are subjected by the international union to a suspension from office-holding for two years. Since their failure to perform their duties involves the whole local in trouble, a duty is placed upon each member to see that his local is in good standing if he does not wish to be subjected to the penalties applied to the local for delinquency. The local financial secretary is required to furnish each member with a "Due Card," which is a receipt for the taxes and assessments recorded upon it. No local is allowed to divide its funds among its members, and if a local disbands (due to abandonment of a mine or any other cause) the funds and supplies revert to the international. Locals which have been idle for a month or more through no fault of their own are exonerated from international taxation upon written request from the local officers.

Each local is required to subscribe to the "Mine Workers' Journal," which furnishes a convenient means of disseminating official notices and gives the individual an outlook upon the whole industry. "It shall be nonsectarian in religion, dignified in tone, and shall serve the political interest of our members and the general movement."

We thus see that the local is the foundation upon which the superstructure of the national organization is built. The locals furnish the funds which make the organization effective in maintaining loyalty to the union, in extending it into new fields, and in supporting strikes which include large areas. The close relationship established is illustrated by the use of the term "brother" which the members use in addressing one another. This spirit of brotherhood along with detailed regulations proves a powerful factor in holding the rank and file in line and in building the cohesion necessary for a continuous policy.

3. OFFICERS

A. Qualifications

The officers of the international organization are a president, vice-president, secretary, treasurer, three tellers, three auditors, seven delegates to the American Federation of Labor, and the members of the executive board composed of one member from each district. Any member in good standing in the organization is qualified to hold office, provided he has been a member three consecutive years, has had five years' experience as a mine worker, and has never been guilty of misappropriating funds of the organization. No two tellers or auditors can be elected from the same district. In case two such officials from the same district receive a plurality of votes, the one receiving the lesser number of votes must resign in favor of a candidate in another district who received the next highest number of votes. This would seem to be a measure of protection against coteries or cabals.

B. Duties of Officers

In the office of president we have a fine illustration of full delegation of authority supplemented by features which enable the rank and file to retain ultimate authority and power. Besides presiding over all international conventions and executive board meetings, all bills and official documents must receive his signature. He fills by appointment all vacancies in international offices except executive board members, who must be elected by their districts, and he may remove any international officer or appointee "for insubordination or just and sufficient cause." Organizers, committees necessary to transact the work of the international convention, traveling auditors, and a statistician are subject to his appointment and he may visit or appoint an officer to visit local unions. However, his appointments, suspensions, or removals must

meet with the approval of the executive board. His interpretation of the constitution is subject to repeal only by the executive board. He may grant dispensations in regard to initiation fees when he thinks they will encourage the growth of the union. In short, he is responsible for general supervision of the organization, and is delegated sufficient authority to prevent the evils that occur as the result of divided leadership or lack of unified policy. This is particularly important during strikes, for then the industrial army must have a commander-in-chief who has power to direct his forces to the best advantage, and no labor organization has suffered more than the miners by not appreciating the importance of this. For these valuable services the president receives a salary of $3000 per year.

The vice-president works under the direction of the president, and gives valuable service by investigating and settling disputes and going upon missions for which it would be impossible for the president to find time. He makes a report of his work to the international convention and is eligible to the presidency in case the office is vacated by resignation or removal. His salary is $2500.

The office of secretary-treasurer is more important than the name ordinarily implies. Besides having charge of books, documents, and other effects, he is the guardian of the organization's finances. And this is of no small importance because the financial organization is one of the strongest features of the union. The secretary-treasurer exercises supervision over locals and their reports, and penalizes them for violation of rules. Except at a period just before each meeting of the international convention, when the locals desire as large a representation as possible, they are greatly tempted to minimize in their reports the number of paid-up members. This is explained by the desire of the locals to fill their own treasuries in order that they may build and equip meeting-places and take care of their own particular wants. To prevent such ir-

regularities is the duty of the secretary-treasurer. He is required to give a bond of $25,000, and has only $15,000 subject to his order at any one time. His report to the convention keeps the organization thoroughly informed of its standing in every way. He receives a salary equal to that of the vice-president.

During the interval between international conventions the executive board has "full power to direct the workings of the organization." The board is composed of one member elected from each district and of the president, vice-president, and secretary-treasurer. It levies and collects assessments during such intervals when necessary, but not for a period of more than two months unless authorized by a referendum vote of the members. The board holds the money of the organization in trust, but a withdrawal of the money requires a written order indorsed by two thirds of the members of the board. It may recommend the calling of a strike by a two-thirds vote, "but under no circumstances shall it call such a strike until approved by a referendum vote." On ordinary matters the board takes a "unity" vote, but at any time a member may ask for a roll vote in which each member has "one vote and one additional vote for each 2000 members, or majority fraction thereof, in good standing he represents." This sort of vote prevents a minority from inaugurating policies that are detrimental to the majority. The president, vice-president, and secretary-treasurer are allowed to vote in "unit" votes, but not on a roll call. In case of a tie on a roll call, the president has the deciding vote. Board members, tellers, auditors, and delegates to the American Federation of Labor receive $4 and expenses when employed.

C. Importance of Organizers

From the simple statement in the constitution that organizers are appointed by the president and are subject

to his direction, it would be impossible to gain a concept of the importance of their work. In chapter I we saw something of the difficulties with which the union had to contend in its attempt to extend its jurisdiction and inaugurate joint agreements. The brunt of this battle for the extension of unionism is borne by the organizers. They are the missionaries or apostles of the faith. They naturally expect opposition from the operators when they attempt to sow the seeds that spring up and choke the abuses of individual bargaining. But they also meet with indifference, ignorance, suspicion, fear of the employers, and race antipathies among the workers, all of which must be overcome by the ideals of unionism and faith in the things to be accomplished by solidarity. In spite of injunctions and intimidation from armed guards they spread their gospel. By the employer who proposes to surrender none of his prerogatives as proprietor they are hated as pests and they meet with treatment appropriate to the regard in which they are held. But they disseminate their teachings as they meet the individual or give him literature until a small group is won over to form a nucleus for a local union. With the formation of a local and increase in membership there comes a demand for recognition of the union and collective bargaining. Usually it takes a strike and help from the international union to inaugurate the joint agreement and seal the outpost as union territory.

4. NOMINATION AND ELECTION OF OFFICERS

A. Nominations

The full significance of democratic control and the provisions for attaining it are shown in the nomination and election of officers. The international officers are nominated directly by the membership upon nomination blanks sent out twenty weeks before the election. These nominations must be returned within five weeks, and within ten

days from the close of nominations the international secretary notifies the candidates who have been nominated by at least five local unions. The nominees who desire to become candidates have their official notice attested by the local officers and return them to the international secretary. After a candidate has filed his acceptance he is not allowed to withdraw. Not later than four weeks after the acceptances are in, the secretary must forward to the locals ballots containing the names, showing the place of residence, and stating the positions for which the nominees are candidates. Local secretaries are required to post notices not later than one week before nominations and elections.

B. Elections

The international officers are elected by referendum vote for a period of two years. The candidates receiving a plurality of the legal votes cast are declared elected. This legal vote is cast by members in good standing and the number of these is determined by special reports from the subdistrict and district secretaries.

The local union is at liberty to designate an official voting place, and strict injunctions are issued in regard to tabulation of votes and interference with tellers. Members who have not attended at least one half of the local meetings for a period of six months before the election are not allowed to act as tellers. All members must be present at the time the votes are cast in order to have their votes tabulated, "except officers, organizers, and workers in the field away from home, whose votes shall be recorded if sent to the secretaries of their respective local unions." The locals elect from three to six tellers, who are responsible for the tabulation, the correctness of which must be further attested by the local seal and signatures of the local officials. If more votes are recorded than were actually cast, the vote of the local is thrown out, and those

responsible for the fraud are "tried by the international executive board, and fined, suspended, or expelled, as the magnitude of the transgression may warrant."

The return sheets in sealed envelopes and properly attested are sent to the international secretary, who keeps a record of their receipt, and before turning them over to the tellers checks them off and obtains a receipt from the tellers. The international tellers are not allowed to count the votes of locals which have cast more votes than they have paid a *per capita* tax upon to the international union for one month preceding the election, "unless a satisfactory explanation for so doing accompanies the 'Return Sheet' of the local." Contests must be filed with the international tellers not later than ten days after the election, and in case no plurality vote is cast for a candidate another election is held. Local officers are required to preserve all ballots for a period of six months after the election. Loitering about the voting place is not allowed, and tellers are held responsible for all irregularities and are subject to trial by the international executive board.

A. THE RECALL

If ten per cent of the entire membership request it, the international secretary is obliged to send out to the local unions a petition for the recall of any international officer guilty of malfeasance. Accompanying the petition are the charges on which the recall is based and the defense of the officer, issued in answer to these charges. If within thirty days thirty per cent of the members sign the petition, the international executive board must "call an election for the recall of any international officer so charged." The recall was an innovation introduced into the constitution in 1912, but it has not been used.

5. THE INTERNATIONAL CONVENTION

A. Powers

The extent of democratic control is further illustrated in the international convention. The administrative officers are given their extensive powers in order that they may do the will of the rank and file as expressed through the medium of the convention and the referendum. The international convention is held biennially on the third Tuesday in January. This meeting comes just before the meeting of the joint conference to form a wage scale. Opportunity is thus furnished for the leaders to know how the rank and file feel about the working conditions under which they have labored during the two years past. The convention is the supreme body of the organization and is limited only on measures which are submitted to referendum vote. Since it is made up from the general membership, expression is sure to be given to vital problems connected with the coal industry and with the functioning of the union. The convention can amend or revise the constitution and reverse any action or policy of the officials. It stands as a responsive agent of the mass of workers and offers free opportunity to introduce measures to meet changing needs.

B. Representation

The delegates are elected directly by local unions and are allowed "one vote for one hundred members or less, and one additional vote for each one hundred members or majority fraction thereof, but no delegate shall be allowed more than five votes." Representation is based upon the paid-up membership for a period of three months previous to the convention. Several local unions with less than one hundred members are allowed to unite in sending a delegate, but he shall not have more than five votes. Locals that are in arrears for taxes and assessments for two

months previous to the convention are not allowed representation. Nor can a person act as a delegate unless he has attended one half the meetings of his local for a period of six months previous to the convention.

C. Election of Delegates

Delegates can be selected only at an official meeting of the locals, notice of which has been posted by the local secretary three days before the meeting. This notice must state that an election of delegates is to take place. The delegates receiving a majority vote of the meeting are declared elected. "No other meeting than the one first advertised and called . . . [is] recognized as an official meeting for the election of delegates." The failure of local officers to read the call and post the notices of the meeting subjects them to removal from office and they are not allowed to hold office for a period of two years. If a delegate's credentials are to be contested, notice of the fact must be sent to the international secretary ten days prior to the opening of the convention and the matter is turned over to the credentials committee. The international organization pays the transportation of delegates, to obtain which they must submit railroad certificates or receipts for fare.

All resolutions, grievances, and constitutional amendments must also be in the hands of the international secretary ten days before the opening of the convention in order that they may be considered by the proper committees. But the international convention refuses to consider internal grievances of districts unless they have been first considered by the lower jurisdiction.

D. Special Conventions

Special conventions are called by the president when the executive board thus instructs him or upon request of five or more districts. But the districts must state

their reasons for desiring a convention. These reasons are embodied in the call for the convention. Once assembled, the special convention is limited to the consideration of the particular measures for which it was called. This provision for a special convention stands ready for emergencies and, as we shall see, was effectively used in the formulation of a policy to govern the bituminous miners during the anthracite strike of 1902.

6. STRIKES

A. The Referendum

The strike is regarded as the measure of last resort. The organization has learned from experience that it pays in time, money, and suffering to utilize conciliation, arbitration, and joint agreements. This is substantiated by the fact that general strikes must be declared by a referendum vote. It demonstrates also the extent to which the idea has penetrated the rank and file. The referendum relieves the conservative leaders from the responsibility of declaring a strike and robs the radical leaders of undue power; but when conditions have arisen that stir the rank and file to the fighting point, the referendum is a fair indicator of the extent of the discontent in the industry.

B. When Strikes are supported

The value placed on peace is shown by the measures which hedge in the alternative of the strike. A district is not allowed to engage in a strike which would involve a major portion of its members without the sanction of the international executive board. The districts may order local strikes, but if they expect financial aid from the international organization the action must be sanctioned by the international executive board. The international executive board decides the conditions upon which financial support shall be rendered to strikes, and the amount of

relief per member. It appoints a bonded representative to handle the funds and no bills are paid by the international union unless contracted and authorized by its representative. The international secretary furnishes locals on strike with report blanks upon which itemized and detailed statements of expenditures must be recorded. The reports are signed by the local officials, and one copy is sent to the international secretary, one to the international representative, and one is kept by the local. Only by fulfilling these conditions can the local obtain financial support.

7. INTERNATIONAL FINANCES

The extent to which aid in support of strikes, either in gaining new union territory or adjusting difficulties within old districts, is a drain on the international treasury, is shown in the report of the international secretary for the year ending January 1, 1912. In that year the organization spent $1,749,106.07 in aiding ten districts. This was met for the most part by special assessments amounting to $1,408,079.93, while the income from the regular taxes was $769,157.72. The organization refused some years ago to enter upon the policy of storing up a large fund, and the end of the year saw the union with a balance on hand of only $160,793.77. The next largest item of expense was the payment of $215,153.85 for the salaries and traveling expenses of 194 officers and employees. Most of these salaries are below $500, and only the more important officers reach a little over $1000. In fact, the total expense account was only $8000 above the amount paid for salaries. It is this small army of executive officers which supplies the brains and enthusiasm, keeps the organization from succumbing to mere inertia, and prevents the unwieldiness of numbers from degenerating into chaos.

An understanding of the effectiveness of this organization and its solidarity in collective bargaining gives one some conception of the real forces that lie behind the

arguments of the leaders in the joint conference. Its effective financial system enables it to prepare for and carry on a protracted struggle. The democratic control of the union's policies gives the leaders greater and more vital power than they could possess under a régime in which their effectiveness depended upon their ability as demagogues to sway the rank and file. But perhaps greater than all — this effectiveness in organization, this democracy, and the consequent forcing of the individual to feel his responsibility, has brought a conservatism that cannot come to men who are unused to acting under rules and regulations and who do not feel the full force of unity.

The whole mechanism of this organization is arranged for the purpose of controlling mine labor. The miners have had to organize to meet changing economic conditions and to offset the evils of individual bargaining. Not until their right to organize is admitted and their leaders are intelligent enough to cope with the employers are the miners on a basis of equality in bargaining. To maintain this equality the miners have had to force the independent worker into the organization and bring coercion on trade-union organizations like the blacksmiths, engineers, firemen, and carpenters employed about the mine, in order to make it an industrial union as opposed to a mere trade union. The appointment of a statistician, who must "collect and compile statistics on the production, distribution, and consumption of coal and coke, freight rates, market conditions, and any other matter that may be of benefit to the organization," has proven a valuable aid to the miners' leaders in intelligent bargaining.

In selling their labor the miners cannot offer it to a disorganized market where separate bargains are driven with each individual consumer, but they must offer it to an organization or organizations, of buyers. Also these

buyers of labor are coming to realize that they have more and more in common. Buyers and sellers are thus made approximately equal in bargaining power. In the next chapter we shall examine the degree of organization that has taken place among the operators.

CHAPTER IV

THE COAL OPERATORS' ASSOCIATIONS

INTRODUCTION

A. THE FORCES WHICH GAVE RISE TO THE ASSOCIATIONS

In discussing the organization of the operators as a party opposed to the miners in joint conference, we should understand at the outset that we cannot expect to find the solidarity of feeling and universality of organization which we have seen among the miners. Although we find references to organization among the operators as early as the seventies, such organization was local. The growth of a feeling of common interests among them over the industry in general has had a very slow development. This was to be expected when we consider that the force of competition between different fields has been so strong as almost to prohibit action on policies for the industry in general. One important factor which has helped them to develop so far as they have is the necessity of preventing cutthroat competition from bringing the general industry to a low level of prices. Another factor quite as powerful was the growing strength of unionism and the necessity for meeting it effectively.

We have seen that the chief cause of the break-up of the joint conference in 1885–89 was the diversity of interests among the operators and their inability to harmonize these interests. After a decade of ruinous competition and strife, a general strike on the part of the miners in 1897 brought the operators together again in joint conference. Even then the operators' side was made up

merely of representatives from the various fields who recognized the necessity for harmony on at least a few fundamental matters. Gradually, from 1898 on, harmony of interests within particular fields developed to a point which permitted the formation of operators' associations for the different fields. This organizing was further induced by the necessity of meeting the growing solidarity of the miners' organization in the various fields. But diversity of interests between fields has thus far raised too many barriers to permit the growth of a general organization among the operators comparable to the United Mine Workers. This can come only after sufficient unity has developed to lead the operators in the various fields to sink their individual inclinations for the sake of the welfare of the industry as a whole and in thus acting find that they are ultimately serving their own best interests. It would seem that the only force which could compel such cohesion is the necessity for meeting an absolute monopoly control of mine labor, or the necessity for a combination of the independent operators to meet the pressure brought by larger combinations of capital. We shall turn our attention to a consideration of the extent of federation among the coal operators' associations in the various fields and to the organization of one of the most highly developed associations. Thus we shall be able to see the effectiveness of the forces which the operators bring to the bargaining for mine labor in the market of the joint conference of the central field and understand the community of interests which will stand opposed to the United Mine Workers in the event of a general strike.

1. THE AMERICAN FEDERATION OF COAL OPERATORS

What may be regarded as the first step taken in the direction of the formation of a general organization among the bituminous coal operators was consummated in

the latter part of 1909. At that time the commissioners and secretaries of coal operators' associations from ten States met and inaugurated a preliminary organization. There the plan was broached of organizing a national association or national federation of associations. To this end a committee was appointed to draft a form of organization to be submitted at a later meeting. In January, 1912, an organization known as the American Federation of Coal Operators was formed and included in its membership the coal operators' associations of Illinois, Michigan, Iowa, Montana, Washington, and Wyoming, and the Southwestern Interstate Coal Operators' Association.[1]

The purpose of the federation is "to promote the commou interests of the coal operators of America by all lawful means; but the federation shall not deal with matters relating to freight rates or with prices and sale of coal."[2] All associations whose purposes are similar to those of the federation are eligible to membership, but we do not find the names of the operators' associations of Indiana, Ohio, and Pennsylvania in the list. We have seen in chapter I that the operators of these three States have thus far taken a conservative attitude on the question of including coal fields outside of the central field in the joint conference, and undoubtedly the same objection of a supposed lack of community of interests accounts for their being outside of the federation. However willing Indiana may be to enter the federation, she is placed in an embarrassing position by the opposition and competition from Ohio and Pennsylvania. We are inclined to think that, though the Ohio and Pennsylvania operators are unwilling to include the other fields in the joint bargaining, they will see the day when they will be glad of their support in facing the united opposition of the union during a general strike. Some of their opposition to the

[1] *Constitution of American Federation of Coal Operators*, 1912, p. 7.
[2] *Ibid.*, p. 1.

adjustment of differentials between fields may die away because of the necessity for a larger community of interest on other matters.

In the deliberations of the federation each operators' association is entitled to one vote "for each two million tons or majority fraction thereof," but no association has less than two votes. Though each association may send as many delegates as it has votes, the delegation representing an association may cast its entire vote. Thus there is a democratic basis for ultimate control, but there is sufficient authority placed in the hands of the president and executive committee to provide for effective administration. On the executive committee there is a representative from each association, and although the committee possesses all the powers of the federation when the latter is not in session, it is limited by the mandates of the larger body and by constitutional provisions. Nor is unanimity of feeling and action to be sacrificed for the sake of rapidity in administration, for any two members of the executive board who are dissatisfied with the action of the board on main or principal questions may demand that the committee receive a mandate from the federation convention before carrying its policies into effect. The most important function of the executive committee is to act in conjunction with the national executive board of the United Mine Workers in constituting a court of conciliation and arbitration for the interpretation of agreements and the adjudication of disputes which are referred to it.

The policy of the federation is to make regulations which enable it to enforce all contracts made by its members with their employees. Of course the coercion is to be placed upon the employees by providing penalties for violations. This is to be accomplished chiefly by suspending the "check-off" of dues to the miners' organization. Thus the leaders are compelled to make greater efforts to hold

their followers in line and prevent local strikes. Members who are suffering from strikes in violation of contracts are reimbursed by the association, though we are not informed just how, probably by the furnishing of coal and the meeting of losses attendant upon the suspension of mine operation.

The financial obligations of the federation are met by the returns from membership fees ($25 for each one million tons produced) and special assessments, which are levied in proportion to the number of tons produced.

Although these provisions characterize the organization as a true federation, it shows possibilities of developing into a capitalistic industrial union. Only the future can reveal whether it will pass through the same evolution as did the United Mine Workers in feeling the necessity of more centralized control and the subjection of local and district autonomy in certain matters to the larger interests of the industry as a whole. Of course the force of competition between fields has been and will be a source of conflict and a constant menace to measures taken to bring about unanimity of action. Moreover, this force of competition, so long as the bituminous coal is produced by relatively small companies, is less apt to yield to concerted action than the competition between union and unorganized labor did. Fixed capital being less mobile than labor, and the expense of production being so dependent upon the variation in the size of the vein of coal, the amount of débris necessitating removal, etc., every possible effort will be made to bring returns upon the investment. The further fact that the mines in operation are always able to produce millions of tons more than the market will absorb will not encourage the development of altruism on the part of the larger concerns sufficiently for them to be willing to permit the little fellows to have their share of the market. On the other hand, the smaller concerns will take their share if the difference between

selling prices of coal and their expenses of production will permit it. In fact, it would seem that a capitalistic industrial union comparable to the United Mine Workers could not develop unless concentration of ownership and control should increase to such an extent as to permit of the exhaustion of the most profitable mines first and a gradual extension of production to the less profitable. Were this to take place it would be a matter of vital concern to the public and to the miners' union: to the former as affecting the prices paid for coal and to the latter as affecting the prices paid for labor. If the miners could present forces as united as those of the operators, and if the public would not permit extended warfare, the miners' wages would undoubtedly reach a higher level by employment of the men only in the richest mines. We are concerned about seeing the degree of unity and the magnitude of the forces which the operators bring at present to the bargaining for mine labor, and it is on this side that the operators are likely to find their greatest community of interest.

It has been within each coal field or district that the operators have learned their greatest community of interest. There conditions of production and marketing were similar enough to permit the growth of a recognition of like interests in the competition within the fields. With the expansion of the union from local to district and national scope an ever-present necessity was at hand compelling the operators to bring about some degree of uniformity in wages and working conditions. Thus a new sense of common interests emerged and encouraged the development of district, field, or state operators' associations, as the situation demanded. Most of this development has taken place since 1898 as the fields have been unionized. It is in these associations that we find the greatest degree of solidarity yet developed among the operators, and it has been the representatives from these

organizations that have thus far met the leaders of the miners in joint conference and established wage scales and differentials between coal fields. In the Illinois Coal Operators' Association we find the highest degree of development. There the operators have had to meet a strong union organization and there they mined coal under similar competitive conditions. These factors have encouraged a complex organization among the operators and made Illinois one of the prime movers for an extension of capitalistic solidarity from state to national scope. We cannot do better, then, than to consider the way the Illinois association is organized.

2. ILLINOIS COAL OPERATORS' ASSOCIATION

A. Objects

The following statement of the objects of the association is taken from the constitution:—

> Its object shall be to promote stable, just, harmonious and business-like relations between the coal operators of Illinois and their employees; to secure in coal trade agreements a recognition of the legitimate needs and rights of the employers; to aid in enforcing agreements between the members of this association and their employees when made; to aid in seeing that suspension of operations in violation of contract is visited with adequate penalties; to see that any member of this association suffering from strikes in violation of contract is sustained and supported, and that he is reimbursed by those violating the contract and otherwise; to promote business-like methods in negotiating agreements and in operating under them; to provide means for interpreting of trade agreements; to compile coal mining statistics and, in general, to promote in all lawful ways the interests of the coal operators of the State.[1]

The State is divided into nine districts, each of which is at liberty to form district associations, if it thinks it to its

[1] *Constitution of Illinois Coal Operators' Association*, as amended, 1912.

interest to do so, and provided that none of the rules and regulations of such associations shall conflict with the state association.

B. Membership

Any person, firm, or corporation is eligible to membership upon making application to the recording secretary and paying the membership fee of $2 for each mine operated and the annual dues of $5 per year. But no "official or representative of more than one coal mining interest in the State shall be entitled to the privileges of the association, unless each such separate interest shall have membership in good standing in the association, or unless members of the executive board representing two thirds of the districts shall decide otherwise. Should any dispute arise as to the eligibility of any applicant, it shall be decided by a majority vote of the executive board."

A. OBLIGATIONS OF MEMBERS

In joining this association the member obligates himself to do all within his power to further the interests of the association, "to maintain and observe the agreements entered into by the association (paying no more nor no less than the rates established, and making no more favorable conditions than those set forth therein), any deviations therefrom to be considered a violation of such agreements." When a member is charged with a violation he is given an opportunity for defense. If the charges are proven and he fails or refuses to conform to the requirements of the constitution, he may be expelled from the association by a majority vote.

A member further obligates himself to furnish any other member with coal in case his mine has been closed by his laborers violating the agreements. Before this aid is given the executive board inquires into the suspension, and if it finds the violation was unwarranted designates the other

members who shall be required to furnish coal to take care of the afflicted member's existing contracts for coal. In taking this action, where voluntary contributions of coal are insufficient, the board takes into consideration the location of mines which are to contribute, the character of the coal, the relative cost at points of delivery, the proportion to be contributed by each, the prices to be charged, and the existing contracts of other members. In no case can the board require a member "to contribute coal at less than the operating cost thereof."

B. DELINQUENTS AND WITHDRAWALS

But if a member becomes delinquent in paying his dues and assessments he may be deprived of the right to participate in the affairs of the organization, or he may be expelled by the executive board "(subject to reversal by the association), or by a majority vote of the association," provided due notice has been given of the pending action.

A member may withdraw at the expiration of a thirty days' notice on condition that he is not involved in a labor dispute (which exists or is pending) and if no labor negotiations are in progress. But this withdrawal does not "release him from any then existing obligations concerning labor matters, nor from being bound by the provisions of any labor agreement for which negotiations are then in progress," if the agreement with the union is authorized "by a majority vote of the members of the association in his district."

A member who withdraws or is expelled can be reinstated only by a majority vote of the executive board or of the association and after the payment of all arrearages in assessments and dues.

C. BASIS OF REPRESENTATION AND VOTING

Each member is entitled to one vote, and a majority vote governs, except that at the request of three members

a two-thirds vote is required to secure the adoption of a resolution in reference to pending labor negotiations or agreements, declarations or terminations of lockouts or strikes, grants of power to the executive board to consummate labor agreements, appropriation of money, levying of assessments, and the adoption of rules for the collection, disbursement, and maintenance of the defense fund.

C. Officers and their Duties

The officers of the association consist of a president, vice-president, secretary-treasurer, recording secretary, commissioner, secretary of the commission, and an executive board. These officers are all elected annually except the commissioner, secretary of the commission, and the recording secretary, who are appointed by the executive board.

A. THE COMMISSION

The duties of the president, vice-president, secretary-treasurer, and the recording secretary are sufficiently set forth by the names they bear. But the commissioner and secretary of the commission are at the head of a department whose chief business is to carry out the administrative work connected with trade agreements. This function has proven to be as necessary as the making of agreements. The individual members on the side of either capital or labor cannot be left to interpret the agreement as may suit their purposes. It is as necessary that capital have its representation in adjusting disputes as it is for labor to be represented by its leaders. Only in this way can an approach be made to consistency and uniformity of policy. Furthermore, they stand as salaried officials who have no pecuniary interest in the disputes and are able to bring a corresponding degree of fairness in their attitude to the matters at issue. But they have no authority to set aside or modify decisions or interpretations of

agreements previously made by the association or executive board. The association evidently considers that one of its most important duties is the "enlightenment of public opinion, that the public may know that the operators desire to respect the agreement entered into with labor organizations, and to enlist its moral support in behalf of this organization and of responsible officers of labor organizations, to the end that violation of agreements on either side may be condemned and rebuked." In order that the members of the commission may have a full understanding of the policy of the association, they are given a seat and a voice without a vote in all meetings of the association, executive board, and all standing committees except the finance and auditing committees. The secretary of the commission is expected to collate statistics concerning production of coal in other States, the markets to which it is consigned, mine casualties, etc.

B. THE EXECUTIVE BOARD

The executive board is composed of three members from each of the nine districts, and where more than one method of mining is in vogue in a district each method must be represented on the board. The members are selected by the several districts "subject to confirmation by the association at each annual meeting" and hold office till their successors are selected. Ex-presidents of the association are honorary members of the board without a vote.

(1) *Duties of the board*

The executive board represents the association when it is not in session, adopts its own rules (to conform with the constitution), directs the administrative officers, and may delegate any of its powers to an officer or standing committee. It may recommend to the association a repeal or change in any provision of the constitution in its annual or special reports. It is the scale committee during

the negotiations of labor agreements, "but when such [agreements] have been reached, and ratified by the association, and promulgated, its powers as such shall cease." It then becomes a "standing committee with power to investigate and adjudicate all alleged violations of existing agreements with intent to secure their faithful observance."

Either the association or the board may take means to enforce contracts with employees, provide penalties for their violation, and arrange for the reimbursement of employers suffering from strikes which are in violation of contracts. One of the most effective measures the board has at its command for penalizing the union for violation of contracts is the refusal to grant the "check-off" of dues. To this end the board is authorized to formulate plans which would provide, "if practicable," for the insertion in contracts of the provision for releasing members of the operators' association from paying the check-off when the miners violate their contracts. Another provision the operators desire to have inserted in the contracts would prohibit the union from reimbursing individual employees or locals for penalties inflicted as the result of breaking contracts. Evidently the operators expected that these measures would require the state and national unions to exert more power over the locals and individual members. During the stormy period of development from 1898 up to 1907 (the time of the adoption of the operators' constitution), these provisions would have been very hard to inaugurate either from the operators' or the miners' side, for the whole movement was too recent and rested on a too unstable basis to stand much coercion. With further development of the full significance of conciliation in the minds of both parties the conditions which require such provisions ought to disappear.

The diversity of the activities of an association is illustrated by the number of its standing and special commit-

tees, such as a general affairs committee; an interstate relations committee, consisting of the past and existing presidents; railroad and transportation committee; mine casualty and mining institute committee; legislative committee; coal-stoking and anti-smoke committee; finance committee; and auditing committee. "The association or the executive board can, at their discretion, revoke or modify the powers and duties of any standing or special committee, or transfer the same from one committee to another, or assign any power or duties to any one of them."

D. The Defense Fund

One of the most noteworthy features of the association is the defense fund. This is built up by special assessments on the basis of the tonnage produced by the members and is drawn upon to help those who are subjected to loss because the union has failed to live up to its contract. If the union officers cannot hold the men in line in a certain district this fund proves a valuable asset. When a suspension of work occurs, the members of the executive board of the district make (or delegate the commissioner to make) an investigation of the case and report the findings to the board. If the executive board decides the member is entitled to support, he is reimbursed out of the defense fund, "taking into account both the direct and consequential loss sustained and the assistance and protection rendered by any other measures provided by virtue of any existing joint agreements or through or by the Association."

The assessments for the fund are levied as a result of a three-fourths vote in annual or special meetings of the association, and all rules and regulations regarding collection and disbursement are subject to a majority vote of the association. The defense fund is kept separate from all other funds of the association and is invested in

readily convertible assets. Payments from the fund must be approved by a majority vote of the executive board. Separate accounts of the amounts paid in by individual members and the deductions for defense purposes are kept, and when a member withdraws or is expelled he is entitled to recover the unexpended portion of his contributions plus his apportionment of interest which has accrued on the fund.

The associations in other fields are similarly organized, but they are not so highly centralized, do not have so great a diversity of activities, and the defense fund feature is absent. But provision is made for a commissioner to represent the association when disputes arise and in the interpretation of agreements. This feature is found in all associations that recognize the union and deal with its representatives. Such a provision is a logical step after the formation of an operators' association and after making a contract in joint conference. Thus the district, field, and state operators' associations present the most united front to labor organizations and upon the centers of unity there established the beginnings of federation have been built. In bargaining for labor in the joint conference and during general strikes we may expect a growing solidarity. We are now in a position to appreciate the strength of the parties that come together to bargain for mine labor and the responsibility the representatives of these parties have in forming an agreement acceptable to their constituents.

CHAPTER V

THE INTERSTATE JOINT CONFERENCE

1. THE FOUNDATIONS OF THE JOINT CONFERENCE

KNOWLEDGE of the rise of the miners' organization, its evolution into a thoroughly organized and well-administered body, and the development of operators' organizations along similar lines, affords a basis for understanding the full significance of the interstate joint conference. The joint conference of the central field is the central market for mine labor. Collective bargaining has here reached as high a point of development as in any other industry in our country. An insight into its complexity makes one realize how far removed the average miner is from the old days of individual dealing with his employer. Under individual bargaining the employee was forced to take the wages the employer offered, and his inability to control the sanitary arrangements and dangers under which he worked put him at the mercy of his employer. In short, it is the contrast between the policy of expecting the self-interest of the employer to work out to the best interests of society and the growing modern concept that human life and public warfare should be held in higher esteem than mere acquisition and preservation of property. Nor does collective bargaining mean that a dead level of uniformity must exist among the laborers. According to Mr. John Mitchell, trade unionism stands for competition among workmen on "the basis of efficiency and not upon that of reduced wages, lengthened hours, or any abatement of the conditions fixed by the collective bargain."[1]

[1] Mitchell, *Organized Labor*, p. 6.

A. The "Right" of Organization and Representation

A chief foundation stone in the structure of the interstate conference is the "right" of the employee to organize which carries with it the right to be represented in bargaining with the employer. Labor thus becomes a product for sale, and, except for the fact that it is a perishable commodity, the seller of the same is on a par with the coal operator. Organized labor is coming to the point where it deplores strikes as much as any other group in the community. The fact that these elemental rights are disputed or not recognized is the cause of most of the strikes. This is because employers are unwilling to allow labor the benefits of coöperation and representation. Strikes are to be used only as a last resort in obtaining justice, for "the victories won in conference halls, where the elements of strength are the enlightened logic of the combatants, are the victories which leave no wounds to heal and are the greatest victories of them all."[1]

B. The Encouragement of Good Feeling

As we have seen, there was a period when the miners had to be educated in regard to the benefits of conciliation and coöperation. In the early days of the interstate conference the leaders on both sides felt called upon to impress upon the minds of their constituents the importance of the conciliation movement. Hard experience had taught them that they had hit upon something worth considering by the rank and file on either side. The occasion of electing a permanent chairman was generally used to lay a groundwork. "This is not an arena where foe meets foe, but it is a friendly meeting-place of those who are interested for the benefit of all. And happy will be the day when capital and labor can meet on the same plat-

[1] *Report of United Mine Workers' Convention*, 1902, p. 36.

form and shake hands with true friendship."[1] President Ratchford at the miners' convention laid emphasis on the importance of maintaining the joint conference by pointing out that "the man or men who throw a single obstacle in its way [are] undeserving of a place in the councils of miners or operators, and will be adjudged guilty of a crime against hundreds of thousands of men, women, and children whose comfort depends so largely upon its consummation."[2] The evolution in attitude of both sides is plainly shown, in the conferences of recent years, by the brevity with which each side exchanges felicitations and proceeds to the necessary business.

C. Formulation of Principles

Although the joint conferences had begun in 1898, it was not until 1902 that a clear formulation of their basic principles was adopted. The following resolutions were presented by Mr. Herman Justi, commissioner for the Illinois Coal Operators' Association:[3]

First. That this movement is founded, and that it is to rest, upon correct business ideas, competitive equality, and upon well-recognized principles of justice.

Second. That, recognizing the contract relations existing between employer and employee, we believe strikes and lockouts, disputes and friction, can be generally avoided by meeting in joint convention and by entering into trade agreements for specified periods of time.

Third. That we recognize the sacredness and binding nature of contracts and agreements thus entered into, and are pledged in honor to keep inviolate such contracts and agreements made by and between a voluntary organization, having no standing in court, on the one hand, and a merely collective body of business men doing business individually or in corporate capacity on the

[1] *Proceedings of Interstate Joint Conference*, 1899, p. 2.
[2] *Report of United Mine Workers' Convention*, 1898, p. 7.
[3] *Proceedings of Interstate Joint Conference*, 1902, p. 51.

other, each of the latter class having visible and tangible assets subject to execution.

Fourth. That we deprecate, discourage, and condemn any departure whatever from the letter or spirit of such agreements or contracts, unless such departure be deemed by all parties in interest for the welfare of the coal mining industry and for the public good as well, and that such departure is first definitely, specifically, and mutually agreed upon by all parties in interest.

Fifth. Such contracts or agreements having been entered into, we consider ourselves severally and collectively bound in honor to carry them out in good faith in letter and in spirit, and are so pledged to use our influence and authority to enforce these contracts and agreements, the more so since they rest in the main upon mutual confidence as their basis.

A sixth resolution providing for arbitration by a board of referees was thrown out.

2. THE CONFERENCE AT WORK

A. Membership

The conference has generally been held during the latter part of January and the beginning of February. The miners' convention is held previous to this and their demands are formulated. This gives the joint conference plenty of time to reach an agreement before the previous agreement expires, usually April 1.

Until 1908, the interstate joint conference was made up of miners and operators from the States of Illinois, Ohio, Indiana, and Pennsylvania. In that year the miners and operators of Illinois failed to attend the conference, for reasons which will be taken up later.

The following table shows the growth from 1898 to 1906 (the highest point), the decline in 1908 and 1910, and the relative strength of miners and operators in the various States:[1]

[1] In 1912 a large committee took the place of a convention.

Variations in Membership in the Joint Conference

States.	Mine Workers.				Operators.			
	1898	*1906*	*1908*	*1910*[1]	*1898*	*1906*	*1908*	*1910*[1]
Pennsylvania	40	113	105	113	45	30	35	15
Ohio	83	156	128	117	67	85	83	50
Indiana (bituminous) .	27[2]	111	31	60	43[2]	50	15	14
Indiana (block) . . .	–	13	3	8	–	8	2	2
Illinois	111	240	15	0	95	184	0	0
West Virginia . . .	17	0	0	0	0	0	0	0
	278	633	282	298	250	357	135	81

[1] The decrease in number of representatives in 1908 and 1910 is due to the participation of only three States in the joint conferences.

[2] No distinction made between bituminous and block representatives. Block coal contains a higher percentage of carbon than bituminous and is taken out in large chunks.

The operators not only expect the miners to keep their own members within the agreement, but rely on them to coerce a delinquent operator. This they can do by calling a strike, which may be more effective than any fine by an operators' association. But the cost of the procedure falls upon the miners, and it is a losing fight if the operator can get plenty of non-union labor. In fact, the chief burden of the cost of making competitive conditions uniform in the various districts comes on the miners. "No attempt is made to make wages uniform or the earning capacity of the men equal between the different districts, or within the districts themselves, the principal object being so to regulate the scale of mining as to make cost of production practically the same in one district that it is in another, regardless of whether or not the earnings of the miners are equal."[1]

B. Organization and Rules

The organization and work of the conference is unique and interesting. The president of the miners is generally

[1] *Report of Industrial Commission*, vol. 12, p. 698.

elected temporary chairman, which gives him a chance to extend felicitations on the continuation of the movement and to introduce local and national men of prominence who have been asked to address the conference. A committee on credentials and a committee on rules and order of business and permanent organization are then selected. These committees are made up of two operators and two miners from each State. A recess of a couple of hours is taken in order to give the committees time to make up their report. In connection with the report of the committee on rules and order of business and permanent organization the name of an operator is suggested as permanent chairman, a miner as secretary, and a representative of the operators as assistant secretary. The rules of the convention contain provisions for definite hours of meeting and adjournment, but special meetings or an evening session are allowable, which provision is often made use of at critical times when an agreement seems about to be reached. The miners' representatives occupy the right of the hall and the operators the left. Each State has the same number of votes, four votes for the operators and four votes for the miners. No vote is declared carried except upon the affirmative vote of both operators and miners from all the States. The unanimous vote shows that each side fears to trust the issue to the other side plus perhaps one vote from its own. In questions of mere procedure the rules in any standard manual of parliamentary procedure are in force. But the rule requiring unanimous vote on all main and principal questions is never suspended. "Main and principal questions" are "all questions affecting the proposed scale and agreement." Each State has four operators and four miners on the scale committee, who are appointed with the understanding that each representative shall have an alternate who has all the privileges of the scale committee, but cannot "vote except in the absence of his principal." In the formation of this

method of representation on the scale committee in the conference of 1898, the minority of the committee on rules and regulations stood out strongly for representation on the basis of tonnage of the respective States, "one vote, miner and operator, respectively, for each five million tons or major fraction thereof, mine-run coal, produced in the year 1896." The majority insisted that their method was fairer to all concerned, and that it was not desirable that "conclusions" should "be forced on any State." The sessions are open to the public except when otherwise ordered, and as a result of this both sides suffer misrepresentation at the hands of newspaper reporters. But undoubtedly it is a considerable asset to the conciliation movement in convincing the public that their proceedings are open and aboveboard and in winning support for the side which has the right of it.

C. The Order of Business

The order of business consists of the report of the credentials committee, report of the rules and regulations committee, appointment of the scale committee, report of the scale committee, disposal of the report of the scale committee, and adjournment. This appears rather a simple order of business, but what seems at the most to be a few days' work has lengthened into weeks at critical times in the industry. After the report of the credentials committee has been accepted, each side learns what the other is expecting by the presentation of formal demands. These demands generally pertain to an increase or decrease in the mining rate, uniform mining system (the miners generally asking for mine-run rather than screen system), uniform wage scale for outside and inside day labor, differential per ton between pick and machine mining, advance in payment for yardage and deadwork, a check-off system by which the dues and assessments are deducted from the miners' wages and paid to the United

Mine Workers, settlement of internal difficulties and inequalities in the various districts, etc. Discussion of these demands brings out the dissatisfaction that both sides have felt during the life of the previous agreement, and one would imagine that such diametrically opposite views as are there expressed could never be reconciled. On a vote to accept either the miners' or the operators' demands, the miners vote unanimously one way and the operators unanimously the other. If the demands had to be reconciled there in open convention, they probably never would be settled, but the machinery of the scale committee is now set in motion and the discussion is carried on by thirty-two men and their alternates instead of by several hundred. The convention adjourns subject to call by the scale committee (or chairman) when the committee is ready to report. The scale committee is governed by the rules of the convention, and here the minutest details of the industry are taken up. It does not take long for each party to discover that there are two sides to every question which is brought forward. The only hope for an agreement lies in a willingness to recede from the arbitrary positions which each side has taken. Usually each side has certain demands which it will not withdraw, but others which it is willing to trade on. These demands are generally discovered by discussion and consideration, in the form of a motion, of the formal demands that each has presented. Both sides are desirous of carrying full and unanimous conviction of the reasonableness of their demands before they are allowed to come to vote, for they always have hanging over them the knowledge that one dissenting vote will kill their proposition. Here one has a chance to see all the foibles of human nature at play, but withal mixed up with banter and good fellowship. Out of it comes a respect for the man for his real worth. Both sides realize that they cannot be governed by the personal concessions they are willing to make, for ultimately they are held responsible

by their constituents. They must present an agreement to the convention that both sides feel will be accepted and lived up to by the rank and file. If the scale committee reaches an agreement, the convention is called to order and the report of the committee presented. If there is any dissatisfaction it is sure to be heard, but the leaders of both sides on the scale committee defend their course of action and advise acceptance of the agreement that has been reached. If the scale committee has been unable to agree, this is reported to the convention and there is another period of general discussion in the conference.

The leaders of the miners prove themselves just as capable and well informed as the best of the operators. It was in 1902 that the miners established a department of statistics to keep themselves in touch with prices and conditions of trade.[1] They have used the information obtained in this manner in a very effective way. In 1906, when the operators offered to open their books for inspection, that a scale might be made on the basis of profits and selling prices, Mr. Mitchell very properly wished to know the connection between the coal companies and the railroads, who owned the stock, and how much of the profits of the coal companies were absorbed to pay freight rates, etc.[2] At the most critical times and when the heat of the discussion runs highest the speaker on the floor is given a fair hearing. We give here a report of a convention incident: —

Mr. —— (evidently from the miners' side, interrupted Mr. R., an operator). What are you doing, Mr. R.?

Mr. R. I am working, and you would be a great deal better off if you were doing the same thing.

Mr. W. (miner). I protest against any unfair treatment from this convention to any man who has the floor.

Mr. D. (miner). I move that the first man who does anything

[1] *Report of United Mine Workers' Convention*, 1902, pp. 44–45.

[2] *Proceedings of Interstate Joint Conference*, 1906, p. 246.

of this kind be put out. If the operators, when Mr. Mitchell or Mr. Lewis were on the floor, would act as our delegates are doing, would you like it?

Mr. L. (miner). I believe it is time to appoint a half-dozen sergeants-at-arms in this convention. Any man who interrupts any speaker on the floor ought to be ejected from the hall, I don't care who he is.

Mr. R. (operator). They need n't do that to protect me; I can take care of myself.

Mr. K. (chairman). I believe it is the feeling of the members on both sides, with a few exceptions, that every speaker should be given a fair hearing.[1]

After further discussion in general convention the scale committee is recommitted to the task of reaching an agreement. Such modifications as each side are willing to make are brought forward. But here as elsewhere the unanimous vote required results in a process of elimination until something is brought forward upon which all can agree. If it becomes evident that such a large number as are in the scale committee cannot agree, a sub-scale committee, of two operators and two miners from each State, is selected by the scale committee. Stenographic reports of the convention and scale committee deliberations are made, but no record of the sub-scale proceedings is kept. The last thing that either party wants is a failure to agree, because it means loss of money. They realize that they must get together and undergo the difficult process of changing their minds — in part, at least. Various sources of information seem to indicate that this is a rather heating and exciting process. In the past it has been part of a sort of gentlemen's agreement that the participants should not reveal the difficult contortions some individuals have had to go through with in order to accomplish this result, but in the conference of 1910 the rather disagreeable practice was begun of making reference in general conference to

[1] *Proceedings of Interstate Joint Conference*, 1904, p. 63.

what went on in the committee meeting. This called for an explanation on the part of the individual accused, with the result that it all went down on the record. It does not look well, and is likely to cause distrust. The sub-scale committee is appointed with the feeling that it is a last resort. When it brings forth an agreement after much labor and discussion, its report is accepted by both the scale committee and the convention. Neither side has received all it wanted, but each feels that it has obtained all it can get and that work may as well begin on this basis. In cases where even the sub-scale committee has failed to agree, the convention has adjourned and a suspension of work taken place until the leaders could succeed in getting together another conference.

D. Inviolable Contracts

It is not to be supposed that the miners in the beginning had an enlarged conception of the sacredness of the agreements any more than the operators. Mr. Herman Justi, commissioner of the Illinois Coal Operators' Association, in order to impress upon the miners the necessity of exercising more discipline over the organization, reminded them of the Spring Valley strike.[1] In that case the strike was settled by a board of arbitration composed of three miners and three operators. A unanimous vote was given to the basis of settlement, but the miners refused to submit and remained idle three weeks "until they had obtained by indirection what arbitration had denied them, and until the union had voted strike benefits to the miners, although it had been contended by the miners' union that the miners were not legally on strike and were not entitled to such strike benefits." On the other hand, this was met by one of the leaders of the Illinois miners with "We stand ready to prove that there has never, since the inception of the joint movement, been

[1] *Proceedings of Interstate Joint Conference*, 1903, p. 80.

a strike of any kind indorsed in Illinois by the organization that could not have been avoided had the operators lived up to the spirit and letter of our agreement."[1] There was evidently room for improvement on both sides if President Mitchell felt called upon to say to the 1900 conference, after the scale had been adopted, "I will serve notice to the operators now that when they go home, unless they keep the agreement inviolate, we will call the men out; and I will serve notice on the miners that unless they keep the laws of the organization, we will suspend them from the organization."[2] In the miners' convention he urged the miners to remember that the agreements were inviolable, and that they should be regarded all the more so because they were purely matters of honor, and, if broken, the employer could not have a greater weapon against them.[3]

3. THE FORMATION OF SCALES

A. The Scale of 1898

The following is the agreement reached in 1898 and is a good example of the items which are settled for the whole central competitive field.

Chicago Agreement, 1898

Chicago, January 28. — Contract between the operators of the central competitive coal field and the United Mine Workers of America.

The following agreement made and entered into in Joint Interstate Convention in this city (Chicago, Illinois), January 26, 1898, by and between the miners and operators of Illinois, Indiana, Ohio and Western Pennsylvania, known as the Pittsburg thin vein district, witnesseth: —

[1] *Proceedings of Interstate Joint Conference*, 1903, p. 83.
[2] *Ibid.*, 1900, p. 142.
[3] *Report of United Mine Workers' Convention*, 1902, p. 51.

1. That an equal price for mining screened lump coal shall hereafter form a base scale in all the districts above named, excepting the state of Illinois, the block coal district of Indiana to pay ten cents per ton over that of Hocking Valley, Western Pennsylvania, and Indiana bituminous district; and that the price of pick run-of-mine coal in Hocking Valley and Western Pennsylvania shall be determined by the actual percentage of screenings passing through such screens as are hereinafter provided, it being understood and agreed that screened or run-of-mine coal may be mined and paid for on the above basis at the option of the operators, according to market requirements, and the operators of Indiana bituminous shall also have a like option of mining and paying for run-of-mine coal or screen coal.

2. That the screen hereby adopted for the State of Ohio, Western Pennsylvania, and the bituminous district of Indiana shall be uniform in size, six feet wide by twelve feet long, built of flat or akron-shaped bar of not less than five eighths of an inch surface, with one and one fourth inches between bars, free from obstructions, and that such screen shall rest upon sufficient number of bearings to hold the bars in proper position.

3. That the block coal district of Indiana may continue the use of the diamond screen of present size and pattern with the privilege of run-of-mine coal, the mining price of which shall be determined by the actual screenings; and that the State of Illinois shall be absolutely upon a run-of-mine system and shall be paid for on that basis.

4. That an advance of ten cents per ton of 2000 pounds for pick-mined screen coal shall take effect in Western Pennsylvania, Hocking Valley, and Indiana bituminous districts on April 1, 1898, and that Grape Creek, Illinois, and the bituminous districts of Indiana shall pay forty cents per ton run-of-mine coal from and after same date, based upon sixty-six cents per ton screened coal in Ohio, Western Pennsylvania, and the Indiana bituminous district, same to continue in force until the expiration of this contract.

5. That on and after April 1, 1898, the eight-hour work day with eight hours' pay, consisting of six days per week, shall be in effect in all of the districts represented, and that uniform wages for day labor shall be paid to different classes of labor in the fields named, and that internal differences in any of the

States or districts, both as to prices or conditions, shall be referred to the States or districts affected for adjustment.

6. That the same relative prices and conditions between machine and pick mining that have existed in the different States shall be continued during the life of this contract.

7. That present prices for pick and machine mining and all classes of day labor shall be maintained in the competitive States and districts until April 1, 1898.

8. That the United Mine Workers' organization, a party to this contract, do hereby further agree to afford all possible protection to the trade and to the other parties hereto against any unfair competition resulting from a failure to maintain scale rates.

9. That this contract shall remain in full force and effect from April 1, 1898, to April 1, 1899, and that our next annual Interstate Convention shall convene in the city of Pittsburg on the third Tuesday in January, 1899.

In the above agreement they were unable to formulate an inside day wage scale, and a resolution was passed providing that two miners and two operators from each State should meet at Columbus, Ohio, and agree on such a scale. The mere enumeration of the kinds of labor to be considered (tracklayers, tracklayers' helpers, trappers, bottom cagers, drivers, trip riders, water haulers, timbermen, pipemen, company men, "and all other inside day labor") gives one some conception of the complexity of labor conditions in the industry. Besides these there are various kinds of outside day labor which have had to be adjusted in succeeding agreements.

B. The Renewal of the Scale of 1898

In 1899 the agreement of 1898 was continued for another year, but with the provision that the machine differential in Illinois, outside of the basing point[1] (the Danville district), should be referred to the Illinois state

[1] The prices in the districts known as basing points are a gauge in regulating prices elsewhere.

convention for settlement. In case the convention should not reach an agreement the question was to be referred to a board of arbitration of seven members composed of three miners and three Illinois operators who should select a seventh. It was not settled because of a failure to agree on a final arbiter. The Hocking Valley operators (Ohio) and the Indiana block-coal operators had to be forced to sign this agreement. The Hocking Valley operators felt that they were placed at a disadvantage with the other competitive fields and suggested arbitration for adjusting the matter. President Ratchford refused to comply with this suggestion on the ground that whatever the decision arrived at the operators would insist on the same advantages and it would result in breaking the agreement. He suggested that the operators sign the agreement and redress their grievance at the next annual conference, because their demands pertained to internal differences which should be settled after the scale was signed and he had "neither inclination nor authority to commit the organization to any other rate than that provided for in the joint conventions." [1] The operators signed.

C. Scale of 1900 and Renewals

In the joint conference of 1900 the miners received an advance of fourteen cents per ton of 2000 pounds for pick-mined, screened coal in the Western Pennsylvania thin vein, the Hocking Valley, and the block-coal district of Indiana. In the Danville district of Illinois and the bituminous district of Indiana an advance of nine cents was paid for run-of-mine coal. The differential between the thick and thin vein pick mines of the Pittsburg district was referred to that district for settlement, and a distinction between punching and chain machine prices was made in Indiana, whether on a screen or run-of-mine basis. An advance of twenty per cent was obtained for inside day labor and

[1] *Report of United Mine Workers' Convention*, 1900, p. 16.

all narrow deadwork, and room turning was paid a proportionate advance with the pick-mining rate. We must remember that getting an agreement and seeing that it was lived up to was only a part of the work of the miners' organization. They had to reduce competition which affected the central field, both for their own sakes and for the welfare of the operators who were willing to meet them on a fair basis of settlement. We have already noted the struggles in Maryland and elsewhere which followed the formation of this scale.

The scale of 1900 was renewed for the years 1901 and 1902, but in 1903 the miners received another increase. An advance of ten cents per ton on screened, pick-mined coal was given in Western Pennsylvania, the Hocking Valley basing district in Ohio, and in the block and bituminous districts of Indiana, while a six-cent advance on pick mine-run coal was accepted in Illinois and the bituminous district of Indiana. Advances of eight and ten cents were given on machine-mined screened coal and six cents on machine mine-run coal in the above named districts. Yardage and deadwork were advanced $12\frac{1}{2}$ per cent and a suitable increase given to day inside labor.

A. ILLINOIS GRIEVANCES

It was in this conference of 1903 that the Illinois operators made a formal presentation of the inequalities which they felt they were laboring under and called upon the conference to adjust them. They reminded the conference of the resolutions which had been adopted in 1902 as the basic principles of the joint conference, and intimated that their continuance in the movement depended on a peaceful settlement in conference. Operation on a mine-run basis while the other States had a screen basis and unfair machine differentials were the chief points complained of. Pennsylvania had a machine differential of $19\frac{1}{4}$ cents and the Indiana bituminous a differential of $12\frac{1}{2}$ cents and 10 cents

on chain and punching machines respectively. "While in the Danville District of Illinois, the machine differential was only ten cents less than the hand mining rate of both types of machines and in the remainder of the State it [was] but seven cents less." They called attention to the attempt to arbitrate these matters in 1899, and attributed the failure to the unwillingness of the miners to accept as final arbiter "any man in the United States beyond both financial and political influence." They were further aggrieved because the miners were not making conditions of entrance to the union equal in the whole competitive field. The conditions they had set up in Illinois were such that the operators were entirely limited to union labor. The laws of Illinois required a two years' apprenticeship, but the miners were setting up a six years' period. If these grievances could not be settled in conference they were willing to submit to any fair arrangement for arbitration. To give the conference a chance to adjust matters they voted for resolutions referring their demands to the scale committee.

The miners were with the Illinois operators in a demand for a run-of-mine basis for the entire competitive field and a universal differential between pick and machine mining. They maintained that the mine-run basis was the only fair method of paying for coal, since by the screen method the operators got a large percentage of coal for which they did not pay, and wherever the miners were unorganized and the operator fixed conditions of employment he was glad to pay on a mine-run basis. The operators answered this by pointing out screens as the only means by which they could force the miner to be careful in his mining, and since they paid a higher price for screened coal, the miner was really paid for the small coal. On the other hand, the miner complained that the operators were not careful in keeping their screens in good order and used "spreaders" so that a larger and larger per-

centage of small coal went through. Besides this they made the complaint that some operators selected the cars which appeared most profitable to pay for on the screen basis and the other cars were paid for at mine-run rates. This abuse is due to the operators' privilege of paying according to the double standard. The operator is protected by the privilege of fining a miner who loads impurities (rock or slate), but he insists that mine-run payment encourages the introduction of unskilled labor and unskillful methods on the part of miners who know better. The diversity in machine differential is due for the most part to the conditions in the various mines which make the use of machines more or less profitable, and is an attempt to make the earnings of the pick and machine miners equal. The miners had obtained mine-run payment and the favorable machine differential in Illinois through strikes in former years. It was to the interest of the miners in other States that they should have as favorable conditions as Illinois, and to the interest of the Illinois operators that the other operators should grant as favorable terms or else see that the Illinois operators had the same mining rates. It will be noted, however, that it was of advantage to the operators of the other States not to grant Illinois a more favorable competitive basis, and to the interest of the Illinois miners not to surrender what they had gained. Since altruism is not the basis of the joint agreement, the only way to have compelled justice for all would have been a strike on the part of the miners of the other States with aid from the Illinois miners and operators in coercing the other operators into granting equally favorable terms. However, the miners had many other things to consider, and the Illinois operator had not developed to the point of helping miners in a strike. The Illinois resolutions were turned down and the State met with the joint conference in 1904 and 1906 hoping for a peaceable solution.

D. Reduction in Wages in 1904

The operators came to the conference of 1904 with the determination to force the miners to accept a reduction of fifteen per cent in wages. Industrial depression, present or anticipated, was offered as the underlying cause. The miners conservatively asked for the maintenance of the scale of 1903. They met the arguments for reduction by pointing out that industrial depression meant cessation of labor, which was equivalent to reduction. Since the cost of living would not fall with a reduction of wages, the consequence would be to lessen the miner's effectiveness as a consumer and this would be another factor in further depression. Furthermore, this principle would work all through industry, and the real solution of the problem was suspension to limit overproduction and restore normal equilibrium. They quoted industrial reports to show that industry was awakening, and used a circular of the Pittsburg Coal Company which claimed a $5,000,000 surplus fund with which to pay dividends for the next five years.[1] The Report of the Labor Commissioner of Ohio was used to show that the average wage of the miner was but $436 a year, while the operators were getting a margin of seventy-one to seventy-seven cents per ton above labor cost with which to operate their mines.[2]

Scale and sub-scale committees were of no avail in bringing an agreement, but the conference before adjournment appointed a special committee with power to call another convention before the contract expired in April, 1904. Another joint conference was called for February 29 and lasted until March 5. The regular routine of the conference was gone through, but without bringing any better results. At this second conference the operators presented an ultimatum which entailed a reduction of from

[1] *Proceedings of Interstate Joint Conference*, 1904, p. 81.
[2] *Ibid.*, p. 81.

three to five cents per ton on pick-mined coal and from four to five cents on machine-mined coal. The miners' delegates were committed by the instructions of their locals and did not accept the ultimatum. But by a special convention composed of the miners' delegates to the joint conference it was voted to appoint a committee to determine their policy, and this committee recommended that the operators' proposition be submitted to the rank and file of miners by referendum vote. In accordance with this a statement was sent out embodying the ultimatum with instructions for voting, and on March 15 the mines were closed in the afternoon from one to six o'clock to give the miners a chance to vote. The result was a large majority in favor of reduction in preference to a strike, and on March 21 the joint sub-scale committee met and signed the agreement to remain in effect till 1906.

In connection with the call for the vote the national officers sent out a statement calling attention to industrial conditions, the slight amount of reduction, the advantages obtained in the past by peaceful means, and the possibility of competition from West Virginia and other unorganized fields. "Men who will strike and suffer all the hardships of a long struggle when they know that others are striking also will hesitate, weaken, and finally return to work when day after day coal is being produced and shipped past their doors into the markets which they formerly supplied." "It will strengthen us with the public, because it will demonstrate that a trade union can, when the occasion arises, gracefully accept a reduction as well as strenuously insist upon an advance, and it will leave us with an organization, strengthened by its conservatism, ready to take advantage of any improvement in the future of the coal trade, to still further better the conditions of the mine workers." Half of the battle would depend on public opinion and, "That body of men has never yet been

organized which can long resist a thoroughly aroused, well-organized and well-directed public opinion."[1]

E. Failure to agree in 1906

The miners opened the joint conference in 1906 by demanding an advance of $12\frac{1}{2}$ per cent over the 1904 scale. This would place them beyond the prices of the 1903 scale upon which they had accepted a reduction. The operators were willing to offer the 1904 scale with an amendment to the effect "that at Danville, the basing point of Illinois, the price of mine-run coal be fifty-two cents per ton for coal loaded on the cars at the face, including the inspection and shooting of the shots, the timbering and care of the working places, and, in machine mines, the proper snubbing of the coal." The significance of this amendment comes out in connection with the "shot firers" law in Illinois. In the last agreement the Illinois miners had made, they had tried to get a clause providing for shot firers which would check the growing loss of life that came from lack of inspection and proper firing. Not succeeding there, they had lobbied a bill through the legislature, and this had entailed extra expense on the operators. This was an added grievance on the Illinois list. The miners replied that consideration of this factor would be the same as asking the occupant of a house to pay for a fire escape or the employees of a railroad to pay for air brakes. Each party stuck tenaciously to its position, and the conference adjourned February 2 with each side accusing the other of breaking up the agreement.

President Roosevelt wrote to each of the parties expressing regret because they had failed to agree and suggested that, since Mr. Robbins, practically the leader of the operators, and Mr. Mitchell were joint chairmen of the trade agreement committee of the National Civic Federation, they were still further obligated to make another at-

[1] *Report of Interstate Convention*, 1904, pp. 118–21.

tempt to reach an agreement.[1] In response to this another conference was held from March 20 to March 29. After going over about the same grounds the deadlock was broken by an offer on the part of the Pittsburg Coal Company to grant the 1903 scale. This seems to have been in direct contravention of an agreement among the operators which was to govern their policy, and became the occasion of much recrimination. The operators from Illinois, Indiana, and Ohio maintained that this was establishing anything but fair competitive conditions, and the Indiana operators went so far as to offer not only the 1903 scale, but free powder if they could employ the same percentage of non-union labor, have the same scale for deadwork, the same scale for day work, and the same machine differential as Pennsylvania enjoyed. The miners met this Indiana proposition with the argument that the Pennsylvania operators proposed to grant the scale in the Ohio and Illinois mines which they owned, and why should not the operators in those States do the same? The real reason why the Pennsylvania operators could grant this increase was because they had large contracts with the United States Steel Corporation and the railroads. As it was, the leader of the Pennsylvania operators voted some of their tonnage against their will, and this was the beginning of his downfall. The operators did everything they could to oust him and finally ruined him financially.

The miners had met in a special convention previous to the second joint conference and decided to accept the 1903 scale. The chief motive behind this action had been a doubt that they would have public sympathy with them in their demand for a $12\frac{1}{2}$ per cent advance, and the fear that, if some sort of an agreement were not reached, a commission similar to the Anthracite Commission would be appointed and meddle with their affairs. In fact they were of the opinion that some of the operators would be

[1] *Proceedings of Interstate Joint Conference*, 1906, p. 141.

glad to have such a commission step in and regulate the differential between machine and pick mining.[1] The conference adjourned without an agreement, but the miners announced the policy of signing the 1903 scale with those operators who were willing to sign. The operators in the Pittsburg district and Kentucky, and various companies in Ohio signed at once, and by July 1 all the operators were paying the 1903 scale.

F. Reëstablishment in 1908

During the next two years a great effort was made to reëstablish the joint conference, and after much dickering Ohio, Indiana, and Pennsylvania operators met the miners, April 14–17, 1908. Illinois operators refused to come in unless conditions of competitive equality were established. The Illinois miners wanted to attend the conference and there secure such conditions, but the operators had no faith that this could be brought about and insisted that the miners meet them in state conference and settle on conditions which would give interstate equality. The miners refused to do this, on the ground that settling state agreements before the national agreements would handicap the national organization in reaching an agreement.[2] An agreement by the three States was reached providing that the mining rates, day wage scale, and "general prices," which had been established in 1907 by various state and district agreements, should remain in effect till 1910. Internal differences were to be left to the districts, but a resolution was added to the scale vigorously condemning the practice which had grown up in the last two years of suspending the operation of mines during the settlement of disputes. The agreement was submitted to referendum vote by the miners and ratified.

[1] *Report of Special United Mine Workers' Convention*, 1906, p. 69.
[2] *Report of Illinois Joint Convention*, 1908, p. 15.

G. Settlement by States in 1910

The miners did not present formal demands in the 1908 conference, but were satisfied to add to what the operators were willing to offer. In 1910 they came forward with a request for mine-run payment, an advance of ten cents on pick mining and an equivalent increase for machine mining, inside and outside day work, deadwork, yardage, etc. Furthermore the wages for day work were to be uniform, with time and a half for overtime, Sundays, and legal holidays. Their eight-hour day was to be from "bank to bank" (i.e., including time going to and from the mine entrance to place of work within the mine), with a half-holiday on Saturdays. They demanded that the new explosives, which were required by the mining bureau and were more expensive, should be furnished to the men at the same relative cost as black powder. There was to be no limit to the amount of deductions from wages to be paid as dues and assessments to the miners' organization and the miners were to stop the reimbursement of operators for expenses which the law said should be borne by the operators. The Pennsylvania operators showed a willingness to grant an increase, though not what the miners expected. Opposition at once arose from the Ohio operators on the grounds that competitive conditions in Ohio and inequalities between Ohio and Pennsylvania would not warrant an increase. In the midst of the deadlock two interesting propositions to arbitrate were advanced, one from the Ohio operators, the other from the miners. The operators were willing to submit to an impartial commission the questions of increase, decrease, or maintenance of the present mining rates. In case this commission could not agree, the operators were to select two representatives, the miners two, and these four to choose a fifth. The miners responded with an offer to arbitrate the question of mining and

paying for coal on the mine-run basis (decision to be rendered according to whether or not the majority of the tonnage of the country operated under that system), the justifiability of the wide machine differential of twenty-nine cents in Ohio and Pennsylvania (decision to be rendered according to whether or not twenty-nine cents was "required to pay for the increased cost in the investment of machinery and a fair profit on that investment as against pick mining"), etc. Neither party would consider the other's proposition, and after both scale and sub-scale committees had failed repeatedly, a special committee of one operator and one miner from each State was appointed. They failed to agree, and the Indiana operators offered the explanation that the Ohio operators in one local district desired to go back home and arrange a contract there, where they were sure they could get a reduction of four cents a ton which they could not get in joint conference, and in one large district they expected to get a half-cent reduction which they could not get in the convention.[1] The convention adjourned and each district and State settled by itself.

H. The New Method in 1912

It will be remembered that Illinois presented her grievances in regard to mine-run payment and machine differentials in 1903, and finally refused to come into the joint conference in 1908 because she could get no satisfaction along these lines. Although adjustment of these disputed points had been secured, yet in the interval between 1910 and 1912 efforts were made to demonstrate the necessity for a general conference including all the central field. The invitation sent out by the miners' president included the operators and miners of Illinois, Indiana, Ohio, Pennsylvania, and West Virginia. A feeling had grown up that a large convention of delegates was an unnecessary

[1] *Proceedings of Interstate Joint Conference*, 1910, p. 345.

expense and mainly a waste of time to both parties. Since the convention merely ratified the work of the scale and sub-scale committees, and had to adjourn while they were carrying on their negotiations, it was felt that the ratification could be brought about just as well by the referendum. But in cases where concessions by both parties have been made only after exceptionally hard fighting, and the agreement arrived at does not come up to expectations of the rank and file, there are fewer men to disseminate themselves over the field and convince their constituents that the contract was the best which could be obtained. In critical times this may be an important matter and worth all the expense attached to a convention. In response to the invitation a committee including eight operators and eight miners from each of the abovenamed States, except West Virginia, met at Indianapolis January 26, 1912. The same order of business, selection of committees, and the same rules that had been in operation in the large convention were used. After considerable debate it was voted to seat the president, vice-president, and secretary-treasury of the union as *ex-officio* members, pursuant to former customs. The miners felt that this would make the agreement much more acceptable to the rank and file.

The miners' demands as formulated in their convention were presented to the committee for consideration. In view of the increasing cost of living, the increasing inventions of labor-saving machinery, and the dangers of their calling, the miners felt that they were entitled to a flat ten cents per ton increase at basing points. They further demanded that coal be paid for on a run-of-mine basis and asked for a twenty per cent increase on dead-work, day labor, etc. A uniform work day and wage scale for all classes of outside and inside day labor, as well as a uniform day of seven hours at the working place for all classes of inside labor, were among the demands. They

considered it essential that a readjustment of the machine differential at the basing points in various States should take place. Weekly payment of wages and no limit to the amount of deduction made through the companies' offices for the miners' organization were also important demands. As we have pointed out, the organization has a considerable problem to make their 400,000 members pay their dues, and any hindrance offered by the operator in the amount he will allow to be deducted only adds to the difficulty.

The miners' demands were voted down clause by clause, and then the operators presented their propositions. They were far from being inclined to grant any increase. The miners were reminded of the keen competition from the non-union fields, and warned that, unless the miners were willing to accept a reduction, the competition could not be met, their tonnage would be reduced, and the miners would obtain less employment. They therefore proposed a return to the scale of 1904–06, the year in which the miners, by referendum vote, had accepted a reduction rather than strike. This they claimed would be the only way in which the operators could meet West Virginia competition. The miners reminded the operators that no matter what the reduction was in the central field, the West Virginia operators were in a position to force wages under the scale of the other States, and thus retain the ability to undersell them.

Failure to come to a compromise necessitated the appointment of a sub-scale committee of two miners and two operators from each State. One advantage of the sub-scale committee (where no stenographic report is taken) is to make both parties less careful of what they say and less ready to advocate partisan ideas.[1] The conference adjourned February 1, subject to the call of the sub-scale committee, and on March 20 was called together again. The sub-scale committee had reached no agreement and

[1] *Proceedings of Interstate Joint Conference*, 1912, p. 90.

the miners had not changed their demands. After further discussion the sub-scale committee was again assigned the task of reaching an agreement. This time the operators receded from their position of exacting a reduction in wages and offered to renew the scale then in operation. The miners refused to accept this, and the discussion was again taken up in general conference. With the appointment of another sub-scale committee the following agreement was reached to remain in effect until March 31, 1914: —

The price of mining was increased five cents a ton on screened coal, pick mined, in the thin vein of western Pennsylvania, the Hocking district of Ohio, and in Indiana. Mine-run coal, pick mined, was increased three cents per ton in Indiana and Illinois, while the prices for machine-mined coal were increased from three to four cents according to whether or not coal was paid for as screened or mine-run coal. The wages of inside and outside day labor were increased 5.26 per cent. The eight-hour day was maintained and internal differences were referred to the various districts for adjustment. The agreement was referred to the miners and approved by a referendum vote.

Although the agreement was reached only after long discussion and stubborn opposition on both sides, it ended with good feeling and the inauguration of a new feature. During the life of the agreement a joint committee similar to the one which had framed the scale was charged with the duty of meeting whenever desirable, to consider and take action on matters pertaining to the welfare of the industry in general. As a first step in this direction the following resolution was passed: —

Whereas, It is recognized that there is a useless waste of our fuel resources in the development of the mining industry, and an unnecessary loss of life, and

Whereas, The useless waste of fuel and the reckless loss of

life is due to the competition in the industry that prevents any form of agreement in establishing the selling price of coal,

Resolved, That it is the sense of this joint conference that a committee of operators' and miners' representatives, of an equal number from the States here represented, together with the international officers of the United Mine Workers, should be created for the purpose of using their influence to amend or have repealed such sections of the Sherman Anti-Trust Law and the anti-trust or conspiracy laws of the different States as prohibit mine owners from arranging a fair selling price of fuel, or that would prohibit miners and operators from arranging wage contracts.

The statement of the operators in reference to the purpose of this resolution may cast some light upon it: —

I believe a committee from this body would have influence with that Senate Committee if they appeared before it and said we would like to have the Sherman Anti-Trust Law so amended as to permit coal operators to enter into agreements on selling prices of coal to alleviate the situation (competitive); and to remove any fear of the coal operators we are willing that a commission be appointed, as is now done for the railroad interests, to say to the coal operators of this country that when they do so agree on schedules of selling prices, those schedules shall not be exorbitant, that they shall not be unreasonable or unfair.[1]

Probably the largest consideration in bringing the operators to take this position is the "West Virginia Problem" to which we have referred in chapter II. Indeed, some operators in West Virginia have reached the point where they are willing to have the price of coal regulated by a commission with powers and functions similar to those of the Interstate Commerce Commission.[2]

4. RESULTS OF COLLECTIVE BARGAINING

During the time the joint agreement has been in force it has not been without its fruits for both sides. The oper-

[1] *Proceedings of Interstate Joint Conference*, 1912, p. 330.

[2] *Report of Senate Committee Hearings*, *op. cit.*, part 2, p. 1664 *ff.*

ators have been able to maintain more stable industrial conditions and less fluctuation in prices. The miners have been able to build up an organization which has bettered their conditions and helped the operators to equalize competition. In the Southwest and Northwest the miners have reached out and forced state and interstate agreements whose scales are governed largely by the scale of the central field. The miners, by extending their organization so widely, have made it possible for the operators to grant conditions of labor which they would never have conceded had they not gone into effect generally. This is shown by the hardship which the various States inflict on industries when they pass laws compelling their industries to compete with conditions in other States where such laws do not exist. The joint movement has brought, by unity of action, the abolition of company stores and company tenements, the inauguration of the eight-hour day, regulation of screens, equalization of wages of different classes, and the improvement of working conditions and safety appliances. Dockage has been lessened and checkweighmen are employed, so that the miner is paid for the coal he produces. The principle of conciliation is ramifying every part of the industry, strikes have been lessened, and the movement is working out a better understanding of the difficulties with which both sides have to contend.

From the tables in Appendix A (pp. 359–363), we find that, although capitalization, production, number of mines, and the total of employees in the industry continued to increase, wages did not rise to a new level until collective bargaining became effective. When wages are once on this level we see no steady absorption of the value of the product, but wages fluctuate with the varying prosperity of the industry. In fact labor is engaged in a constant struggle to maintain this new level and make wages more responsive to changes in prices and cost of living.

There are several factors which make this struggle

difficult. We have seen that the effect of machinery has been to decrease wages by helping to glut the market and lessen the number of days the miners could work. Added to this element is the constant increase in the number of employees, which causes a further reduction in the number of working days for those already in the industry. These conditions are made possible because the demand does not keep pace with the ability to supply the market. Aside from the advantages which might have accrued to the operator from the miner's patronage of company stores, there is another urgent reason for desiring to retain a surplus of men on the premises — the seasonal demand for coal. Further, it does not pay to mine coal and store it, thus giving fewer men steady employment, for the handling is a great expense and the coal deteriorates in appearance and quality. For this latter factor in the situation the public is largely responsible because consumers are very slow about buying coal ahead of the season, even though they are offered rates that are equal to good interest on the money invested.

The full import of the new level of wages for the worker is seen when we consider that in spite of the reduction of possible working days by the above factors, we find that in 1911 he gets a larger yearly wage for working 167 days (Illinois table) than he did for 229 days in 1893. This result is obtained by gradually forcing up the average daily wage. The same general principle is shown in the other States, though not quite so strikingly. The force of collective bargaining is further shown (as may be seen from the tables in the Appendix, and on page 267) by the fact that the prices paid for mining were more responsive in the bituminous field than in the anthracite region and also by the fact that the general level of average daily wages in Illinois and Ohio is kept on a higher plane than those of West Virginia. Another interesting consideration is that in spite of the eight-hour day the production con-

tinues to increase, although the men are working a less number of days. Besides the increased efficiency that may result from shorter hours, the increased use of machinery and a greater number of men in the industry accounts for this. Table VI in Appendix A shows that the increased production per mine and per employee is worth noting.

In connection with the increase of capitalization, production, and number of mines it may be observed that we have an exception here to one of Professor Moore's laws of wages, "that the more rapid the increase of capital in an industry, the more rapidly do wages increase."[1] The situation may be partly explained by another of his laws, "that the fluctuations of wages about their general trend are inversely correlated with the machine power with which the laborers work." But the trouble is that there is not a general trend, and the only power which the laborer has to make wages respond to prosperity is his united stand for higher wages. Nor in this case does the "rate of wages, amount of employment, and length of the working day" necessarily improve "with the increasing concentration of industry,"[2] but rather with the increase of the bargaining power of the laborer.

As has been pointed out,[3] the simple average wage in the coal industry is fairly significant because the different employees are earning about the same wages. There is not so much difference in the pay of the skilled and unskilled labor as to affect the simple average greatly. Several instances are noted in the tables where the average yearly earnings of the miners do not vary much from the earnings of all employees. In fact, in many cases in the bituminous field the yearly average earnings of all employees (even when the salaries of officials are not included) is greater than that of skilled miners. The inclusion of the

[1] Moore, *Laws of Wages*, p. 177. [2] *Ibid.*, p. 193.
[3] Nearing, *Wages in the United States*, p. 119.

skilled miners among the total employees only helps to lessen the depression of the simple average by low-paid unskilled labor. It was not possible to get a weighted average from the census reports previous to 1902, nor from the reports of the state bureaus of labor at any time. For 1902, when the figures were procurable, the weighted average of yearly earnings of all occupations in the bituminous field is $470.73, while the simple average is $493.67. In the anthracite field, the weighted average for all occupations is $329 and the simple average is $377.89. This was the year of the "big strike" in the anthracite field, which accounts for such a large difference between it and the bituminous field.

It is interesting to note the difference in the general level of wages in the bituminous and anthracite fields in 1902. The average daily wage (weighted) for contract miners in the anthracite field was $2.72, for all occupations, $1.88. In the bituminous field the corresponding daily wages were $2.31 and $2.21; the miners not being much above the general level, while in the anthracite field there is a variation of 84 cents.

A comparison of the median daily wage gives a truer picture of the variation between contract miners and the median daily wage for other occupations, for it is not affected by the extremely low wage of the boy workers, on the one hand, or, on the other hand, by the tendency of the high wages of the officials (which are included in the enumeration of the wages of all occupations) to raise the general level. The median[1] (or mid-point) daily wage of contract miners in the anthracite field was $2.53, and for all other occupations $1.79, a variation of 74 cents instead

[1] Professor R. E. Chaddock describes the median thus: "Having arranged the wage-earners in regular ascending order, according to the amount of their wages, the median average wage is that of the mid-wage earner of the series. This method of computing an average minimizes the influence of extremely high or low wages, and where such wide extremes exist gives a more typical result."

of 84 cents as expressed by the weighted averages. In the bituminous field the corresponding figures were $2.22 and $2.16, which again corroborates the conclusion that the general level of wage there was higher than in the anthracite field. We can assign no reason for this unless it is an expression of the results of collective bargaining power which had been in effect in the bituminous field since 1898. The discrepancy between the fields would have been greater had not the anthracite field already profited by collective bargaining in 1900 to the extent of a ten per cent raise.

In a notation on the tables in Appendix A, we have called attention to the erroneous conception of yearly earnings given by the use of the *average* number of employees during the year. The United States Census Report of 1902 employs these figures, and, when an attempt is made to arrive at average yearly earnings by dividing total wages by the total number of employees, the average is too high. The census does not give the average daily wage and the average number of working days, so there is no other way of obtaining an approximation. But the use of the average number employed leaves out of account the fact that there are a great many more men in the industry who depend for their subsistence upon the earnings they receive during the course of a whole year. Where it is possible to obtain the average daily wage and the number of working days, it is demonstrable that the proper procedure is to divide the total wages by the total employees on the pay rolls, which gives an average yearly wage that is comparable to the average daily wage multiplied by the number of days worked.

The table for West Virginia (from the state report) shows that the average daily wage in 1902 for all other employees than pick miners was $1.45. This, multiplied by the average number of days worked, gives $361.05. No average daily wage for pick miners is quoted, but their

average yearly wage averaged with the yearly wage of other employees gives $447.30. In 1911 the average daily wage of pick and machine miners was given and included to obtain the average of all employees, which was $2.15. The average of pick and machine miners was $2.34, and it is seen that their yearly earnings do not vary much from the yearly earnings of the total employees. The yearly wages of pick miners, obtained by multiplying the average number of tons mined by the average price per ton, was $570.48. The total wages paid is not given by the reports in either case, so there is no way of checking up the yearly wage by dividing the total wages by the total employees. Even though the total yearly wage of West Virginia should exceed the total yearly wage of the other central States, a fair comparison of the real welfare of the workers cannot be made until the number of working days and the hours per day are taken into consideration. From 1904 to 1909 the miners of West Virginia averaged "216 days of 10 hours per day or a total of 2160 hours each year. [This] reduced to 8 hours per day would be an average of 270 days each." Ohio averaged 173 eight-hour days from 1904 to 1909, "or 97 days less than the average work in West Virginia on the eight-hour basis."[1]

The only fair basis of comparison, seeing that there is this wide discrepancy in actual number of days and hours worked, is to reduce the wage to a rate per hour. This was done by taking the number of days worked by pick miners in Illinois, Ohio, Pennsylvania, and West Virginia and multiplying by eight or ten hours according to the length of the working day in the various States. The total yearly wages received were then divided by the total number of hours, and we find that the rate per hour for West Virginia was below all the other States in all the years listed in Table V, except that it was equal to the rate in

[1] *Report of Senate Committee Hearings, op. cit.*, part 3, p. 2155.

Pennsylvania in 1909 and in 1911 and one cent higher than the Pennsylvania rate in 1908. In this connection we must remember the total yearly wage of pick miners in Pennsylvania is the result of averaging the wages from unorganized districts with the wages from unionized fields. We have made a comparison between the rates per hour for pick miners because their wages are near the average for all employees and because sufficient data for making a comparison of the average wages for all employees could not be obtained in all the States.

In the years in which West Virginia has a greater total yearly wage than the other States, if this difference or surplus wage is divided by the total surplus hours that West Virginia miners are working above the States which have an eight-hour day, it results in a payment per hour for this time of never more than fourteen cents. It not only goes as low as three cents per hour, but in the instances where the other States have a surplus over West Virginia it can only be expressed as a negative rate. This gives us some appreciation of the necessity of considering not only the total yearly wage and the number of days worked, but the rate per hour and the extent to which a worker is really recompensed for the surplus hours he works as compared with the worker who is getting a less total yearly wage, and who, at the same time, is working a less number of hours.

The importance of the minimum wage and maximum working hours has been demonstrated in the bituminous coal industry. The abuse of the minimum wage is safeguarded by the employer's right to discharge, and the workingman must come up to a certain standard of efficiency or his services are dispensed with. The cost of labor is definitely fixed to all employers, and the union guarantees the employers against undercutting by their competitors. Where such a regulation does not exist there is almost no limit to the depth to which wages may sink,

and the just employer is compelled by competitive forces to depress wages to the level of the most unfair employer. As has been well said, the minimum wage "places competition where it should be — upon a plane of legitimate business activity." It should be remembered that the interstate joint conference simply cleared away questions which pertained to the whole industry. The settlement of state and district matters brings us to our next chapter.

CHAPTER VI

THE STATE CONFERENCE

INTRODUCTION

A. THE TASK OF THE STATE CONFERENCE

As we have seen,[1] the local and state agreement preceded the interstate agreement, and the partial success there suggested the interstate conference and the establishment of uniformity over a larger area. State, district, or local agreements are made in Illinois, Indiana, Ohio, Pennsylvania, West Virginia, Kentucky, Tennessee, Texas, Kansas, Arkansas, Missouri, Michigan, Montana, Iowa, Wyoming, Washington, and British Columbia, Canada. This also gives some idea of the scattered area of the bituminous coal fields. The state conference follows the interstate conference and proceeds at once to the consideration of details which are local and could not be settled effectively in the interstate convention. The prices at the basing point in the various States having been settled by the interstate joint conference, the State is left to settle upon the variations in the different districts. If there are special questions which concern only the district, they are left for the operators of the particular district, but district agreements must be in conformity with interstate and state agreements. Questions which the state and district conferences cannot settle are usually referred to a board of arbitration consisting of two miners and two operators who, if they cannot agree, choose a fifth party.

[1] See chap. I, p. 19.

B. CONDITIONS OF THE INDUSTRY IN ILLINOIS

Illinois has many peculiar complications which are conducive to labor disputes, and a study of methods there will show the state agreement at its highest point of development. There are 886 mines with over 72,000 miners, forty per cent of whom are ignorant of our language. The miners' organization has not yet devised means by which it can rigidly enforce agreements upon its members. All of the operators have not yet been brought into the operators' association, and not all of those who are in have abandoned the idea of fighting out their difficulties singly rather than working through the association. The provision in the agreement for fining both the miner and the operator is an attempt to make both parties realize that it is a serious offense to take matters into their own hands rather than to work through the channels provided for settling disputes peacefully and without suspension of work. The miners have great trouble in replacing incompetent and unruly members who do not live up to the agreement. The radical element is too often in the saddle, and the officials are frequently compelled to assent to much that they disapprove of. The underlying industrial situation probably makes each party particularly touchy in regard to the least infringement on their earnings. In spite of the size and rapid development of the coal industry in Illinois, the industry is not prosperous. A great many mines have been opened and large sums of capital invested which were not warranted from the standpoint of normal commercial demand. This overdevelopment was largely encouraged by the unusual demand for coal from the central States at the time of the anthracite strike in 1902. The overproduction which results increases the cost of production by irregular operation of plants and reduces the average number of working days per year for the miner to about 168. The normal demand for coal could

be met by the labor of about 50,000 men instead of 72,000, and the annual wage of the miner would be more nearly commensurate with the standard of living which is his due. It is evident that these conditions are very favorable to the periodic occurrence of industrial strife.[1]

1. ORGANIZATION

The state conference is much the same in organization and methods as the interstate conference. A description of conditions in Illinois will show the most advanced stages of development in almost every line, for there the regulations from year to year have been the most elaborate. The same method of requiring a unanimous vote on all main and principal questions and the same use of the scale committee are in operation as in the interstate conference. The scale committee has two operators and two miners from each of the nine districts, and most of the work of the convention is done by this committee. The practice seems to be in vogue of appointing special committees from the scale committee to draw up different articles of the agreement.[2]

2. THE FUNDAMENTALS SETTLED

One of the first things settled on in the state conference is the scale of prices to be paid in the various districts as it varies from the basing point according to the different coal veins and working conditions. Changes or working conditions which increase the cost of production are not to be put in operation during the life of the agreement. Certain employees about the mines are exempt from the jurisdiction of the miners' organization. They are in positions of authority, are definitely enumerated, and their right to hire and discharge is not to be abridged. It is definitely stated that this right in conjunction with the

[1] *Report of Illinois Employers' Liability Commission*, 1910, p. 118.
[2] *Report of Illinois State Convention*, 1908, pp. 217, 249.

management of the mine and the direction of the working force are vested exclusively in the operator and he delegates his authority to his lieutenants. It is understood that the coal is to be practically free from impurities such as bone, clay, slate, or sulphur. When the miner offends in this respect the impurities are estimated by an inspector and their weight deducted from the car. Besides, the miner is fined fifty cents for the first offense, in any given month, and for the second offense he is fined two dollars or suspended for two days at the discretion of the operator. For the third offense, or in any particularly aggravated or malicious cases, the miner is subject to discharge. In case of discharge the impurities are preserved as evidence, if the man's case comes up for trial, and the company posts in a conspicuous place the names of miners thus dealt with. The inspector cannot be a member of the miners' organization nor can he be embarrassed in his duties. Any one who hinders him in his duties is subject to punishment by the miners' organization and may be suspended by the operator. If charges are brought that the inspector is not performing his duties properly, he is subject to trial through the regular channels and, if found guilty, is discharged or transferred to other duties. The fines collected under these provisions are paid to the miners' sub-district treasurer. This helps the miner to see that all the owner asks is honest labor.

Closely connected with this is the provision that a miner who absents himself from work for two days without the consent of his employer, and without proven sickness, is subject to discharge. Employees guilty of throwing a mine into idleness or materially reducing the output of the mine by using any methods to force demands contrary to the agreement, or to secure a decision by any other methods than those provided in the agreement, are subject to a fine of five dollars each. On the other hand, any operator who locks out all or part of his employees in order to force

conditions in violation of the agreement is subject to a fine of one hundred dollars. Of the fines thus collected one half is paid to the miners' and one half to the operators' organization.

To insure skilled workmanship it is agreed that all mining and shooting of coal shall be according to the state mining law. It is stated that payment on mine-run basis was inaugurated to do away with contentions incident to the use of screens, and the miners' organization promises full coöperation and insistence on skilled workmanship. The amount and kind of powder used is determined by a commission of skilled men selected from the operators and miners, which rests its decision on the favorable results to be obtained for miner and operator alike. This is quite a departure from the days when the operator charged the miner extortionate prices and forced him to pay on penalty of losing his job.

The mere enumeration of some of the main headings of the agreement shows the complexity of the industry and why it is that labor has found it necessary to have some voice in deciding upon its working conditions, such as equal turn, yardage and deadwork, operators to keep places dry, track laid by operator, rules for drivers, shaft-sinking, use of cage by employees, machine differential, emergency work and ordinary repairs, responsibility for timbering and deadwork, fatal accidents and funerals, operators to keep ambulances, bandages, etc., inside and outside day wage scale, overtime, oil, blacksmithing, pay days and statements of account, definition of eight-hour day, etc.

The district and local agreements cover such things as headings, crossroads, rolls, miners' supply of household coal, entries, timbering, removing water from miners' place of work, and the diverting of smoke from the blacksmith's fire into return airways.

3. ADMINISTRATIVE MACHINERY

A. Business Contracts

The machinery for working out the agreement after it is made deserves the most extended treatment. The state conference has provided this machinery and it is one of the principal provisions applied over the whole State. It is fairly easy for the leaders on both sides to formulate some sort of an agreement, but the problem is to provide effective methods for carrying out the agreement. One of the foremost obstacles encountered is the fact that the mine boss and average workman do not themselves understand the agreement. They did not make it, and most of the trouble which comes up is due to the interpretation of the agreement. Not only the workmen and mine boss, but the operators' and miners' officials all along the line need enlightenment. In fact, the agreements are business contracts which have grown up gradually, and the changes made from year to year are not revolutionary. The willingness of both parties to meet each other and settle questions fairly, and the machinery by which this is accomplished, are the chief contributions of the conciliation movement.

B. The Steps in Conciliation

On the part of the miners in the local mine there is a pit committee of three members chosen from the rank and file. Their chief duty is to adjust any difficulty which may arise between the pit boss and any member of the United Mine Workers working in or about the mine. In case they cannot settle it, the miners' local president, the pit committee, and the pit boss get together. In case these fail to agree, the questions at issue are referred to the superintendent of the mine and the miners' president of the subdistrict. In case of their disagreement, it is re-

ferred in writing to the officers of the operators' association and commission and to the state officials of the United Mine Workers. These officials, having a written statement from both sides and the names of witnesses who are able to substantiate the facts, give a hearing to the local representatives in dispute and to any of the witnesses mentioned in their statements who can be produced. After hearing the case the officials retire and if they reach an agreement, render a decision in writing. If they fail to agree, they must make a written statement of the essential facts which govern the case. If they cannot agree on the essential facts, they must submit such facts as they do agree on, the facts in dispute, and their reasons for failing to agree. The joint executive boards of the two organizations then take up the case, and if they fail to agree, it is arbitrated at the discretion of the joint executive boards. Decisions reached under this system govern like cases during the life of the agreement and the life of "future contracts with like provisions, unless otherwise stipulated in writing in the decision, or, except as protested, as herein provided." Neither party can appeal from any joint decision reached in accordance with this system. But any "decision may be set aside by joint action of the two executive boards, and either executive board may require a reviewal of a decision by the joint executive boards, and if not set aside when so reviewed, either executive board may protest it as a precedent." The intent of these provisions is to "obviate the necessity of independent action by either party and to avoid the delay in disposing of disputes existing in the past."[1] While a case is in dispute work continues without interruption. If any "day men"[2] refuse to work while the decision is being reached and such action threatens to close the mine, the United Mine Workers are obliged to furnish men to take their places.

[1] *Illinois Agreement*, 1910, p. 22. [2] Paid by the day.

C. The Pit Committee

The pit committee is not allowed to go about the mine unless called upon by a miner or the pit boss to settle a dispute, and pit committeemen who are employed as day men must have the permission of the operator, unless a case has arisen which has stopped the mine. A pit committeeman who tries to put in force any provision which violates the contract, or does not advise against a shutdown (which violates the contract), may be deposed from his position. These provisions are not to hinder them from looking after membership dues, initiations, etc. The functioning of the pit committee has shown that there are certain matters in connection with working conditions about which the worker should and must have some say without conflicting with the employer's duty of "running his own business." Furthermore, it places the worker in a position of greater equality in bargaining.

D. Method of Investigating Disputes

Every effort is made in formulating the agreement to avoid all chance of differences and disputes and to make both parties realize that it is an inviolable contract. Operators are forming the practice of calling together their men who have authority and discussing and explaining the agreement.[1] In spite of this, unlooked-for exigencies are constantly arising which make necessary interpretation of the agreement, and the mere bringing together of the disputants gives opportunities for impressing a better understanding of the agreement upon both parties. Every effort is made to settle disputes promptly, and the mine manager is prevailed upon so far as possible to settle with the local officials. An important work of the commissioner and the miners' officials is to get the mine manager to realize that "A soft answer turneth

[1] *Report of Illinois State Conference*, 1908, p. 115.

away wrath," and the miner that "A polite request will obtain tenfold more than a rude demand." When the commissioner and union officials set a date for a hearing, the parties are summoned, accompanied by witnesses, and the witnesses are encouraged to speak freely. Every effort is made to get at the truth, and the attempts to confuse witnesses, so common in legal proceedings, are not allowed. If necessary all the parties go down into the mine and investigate actual conditions.[4]

A. THE DANVILLE CASE

An interesting settlement of a Danville subdistrict case took place in 1901. It was referred to Mr. Herman Justi, commissioner of the Illinois Association, and to Mr. John Mitchell, national president of the miners.[2] The Danville operators claimed that the run-of-mine system had saddled such a large amount of deadwork upon them, due to the careless shooting of coal and timbering of the mines, that they could not see their way clear to accede to the agreement unless some relief was afforded them. The operators showed statements where the cost of deadwork had increased from $3\frac{3}{4}$ cents per ton to 12 cents, which pointed to a danger of permanent idleness and loss to all parties concerned. The section in dispute had been inserted in the agreement with the expectation that more careful mining would result. The decision of the arbiters was arrived at after first-hand investigation of the mines, and they had to admit that they had found evidences of improper shooting and timbering. The following is the substance of the rules which they recommended and decided should be in force: —

1. Each party should remember the spirit of the section and exercise "mutual fairness and conciliation."

[1] Justi, Illinois Coal Operators' Association Publications; *Plans of Conciliation and Arbitration*, p. 15.

[2] *Report of Industrial Commission*, vol. 12, p. 695.

2. The miners should exercise good judgment in shooting coal in order to reduce the number of props blown out.

3. The miner should use sufficient timbers to prevent falling of roofs.

4. Whenever it was shown that props had been blown out as the result of improper shooting, the rock should be cleaned up at the expense of the miner.

5. When unusual conditions like rocks and faults existed and abnormal falls of rock resulted, the miner should receive extra compensation or the company's men should clean it up. When an unusual fall resulted, the miner should consult the mine foreman immediately, and, if decided unavoidable, the compensation for removing it should be fixed in advance.

6. If the miner and foreman failed to agree, the pit committee should try to settle it. If they were unsuccessful, it should be referred to the subdistrict president and the commissioner of the operators.

7. Miners should shoot their coal so as to produce as large a percentage of marketable coal as possible.

8. The mine foreman should supply proper timbers so as not to entail extra work on the part of the miner.

9 and 10. Where falls take place as the result of conditions over which the miner has no control, the company should stand the expense.

Also they recommended that mine foremen and pit committee treat each other courteously and try to reach an equitable and just decision. And further, both parties were asked to apply the decision in a "friendly and businesslike manner, and thus avoid friction which in the past has been so disastrous to the interests of both mine owners and workers."

B. THE CASE OF THE ATHENS LOCAL UNION

The case of the miners' local union at Athens, Illinois, in 1901 is an example of the difficulties under which the miners' organization labors in holding its members up to the agreement, and of the disciplinary measures used. The miners' local had not only broken the agreement, but they had defied their own state organization. Their case had been investigated by a joint committee of miners and operators, which gave a unanimous vote against the conduct of the miners in violating the agreement and their treatment of the mine manager. The report of this joint board was approved by the state joint conference, and the state executive board of the United Mine Workers suspended the local for an indefinite period. This action made it impossible for them to get work, for they were refused membership or transfer cards to other locals and mines. At the end of eight weeks the miners were convinced that they had made a mistake and applied for readmission to the union. This the union refused to grant until the consent of the operators was given. The operators agreed to reinstate them, and work was resumed, but the operators had been the losers and something had to be done to make the men stick to their contract.

E. Coercion by Fines

This with other instances brought the operators to the point where they demanded that the miners' organization stand losses due to breach of the contract by the miners, as is done by the International Longshoremen's Association.[1] The nearest approach to this is the fine on the individual member, and various decisions show that the operators are rather lenient in not insisting on its strict enforcement. Decisions in the monthly bulletin show the

[1] Justi, Illinois Coal Operators' Association Publications; *Conciliation and Arbitration*, p. 25.

common practice of granting an alternative proposition or holding the fine in abeyance pending good behavior and until the miners are guilty of another offense. The agreement of 1908 provided for a ten-dollar fine on each miner who suspended work and violated the contract, but in 1910 the fine was fixed at five dollars. Whether this will be high enough will depend largely on increased willingness to settle by peaceful means and the development of tact by both parties. Too often the men regard a suspension of work as the only effective means of forcing a quick adjustment, and the miners' state officials follow the same course in threatening "independent action" unless a prompt settlement is made. Often an attempt to get at the real core of the trouble is made by discharging, fining, or deposing the local president and the pit committee.[1] How far the local and state miners' organizations are guilty of misuse of power in assuming an arbitrary position in refusing to inflict the penal clauses of the agreement is hard to determine from reading the decisions of the cases. Both parties are probably guilty of this offense to a greater or less extent, and improvement in this respect will undoubtedly take place as they grow confident that real justice will be meted out by the system which they have built up.

F. The Monthly Bulletin of Decisions

In connection with the agreement of 1908, when the system of making the joint executive board a court of last resort was established, the policy was adopted of publishing a monthly bulletin containing decisions handed down. When a dispute arises it is listed with a case and file number. If the case is settled during the month by the local officers, the decision is recorded. If it has to pass through the hands of the operators' special agent and a miners' board

[1] *Illinois Coal Operators' Association Bulletins*, December, 1909, p. 10; March, 1909, p. 73.

member to a joint group board and then to the joint executive board, the history of the case is traced each month by its case and file number to a final settlement. The decisions reached are regarded in most instances as precedents in deciding similar cases, but, according to the agreement, either side may protest the decision as a precedent and consider it applicable only to the particular case cited. The importance of this latter point cannot be too highly estimated. Mr. Henry Crompton, when writing of the English coal industry in 1876, referred to the emphasis put upon awards as precedents thus: "The error of this legal conception consists in the failure to see that these arbitrations are only temporary expedients, to enable industry to emerge from a chronic state of war, and that giving systematic and permanent form to the continual succession of arbitration struggles is a danger as formidable as the system of strikes. If each arbitration is to be governed by the accumulated results of former awards, we shall have a series of decisions gradually forming a voluminous and unintelligible library of case law, and a system of refined advocacy."[1]

4. THE SYSTEM IN THE SOUTHWEST

In the southwestern field the system of settling disputes is nearly as elaborate as in Illinois. The pit committee functions in the same manner in the Southwest, but if trouble arises in a mine and the pit committee and foreman cannot settle it, the case goes before the superintendent and the district president of the United Mine Workers. If they cannot settle it, the case goes before the commissioner of the operators' association and the district president or such persons as they may designate. Usually the district president and the commissioner can settle the matter, but if not, a permanent arbitrator, mutually selected, settles the controversy.[2] In the mean time the mine

[1] Crompton, *Industrial Conciliation*, pp. 26–27.
[2] *Southwestern Joint Interstate Agreement*, 1912, p. 1.

continues in operation. If there is a question of whether the case should be arbitrated, it must be decided by an appeal board composed of one operator, one miner, and a third party selected jointly in each district. If either party to an award feels that the decision has set aside the written terms of the contract, they may appeal to the appeal board, and the board after hearing the facts may remand the case to the arbitrator for a rehearing.[1] The decisions that are handed down as a result of this process are preserved and serve as precedents in deciding upon similar cases under similar circumstances.

Up to 1908 cases were appealed from the commissioner and district president to a reference board composed of three operators and the three district presidents. From 1908 to 1910, appeal was taken to the president of the operators' association and the national president of the United Mine Workers, but in the latter year the practice was inaugurated of having an arbiter selected beforehand whose expenses are divided between both parties.[2] His decisions are printed and distributed to both factions.

5. THE SYSTEM A GROWTH

All this sounds very complicated, and we can hear the average employer in most industries exclaim with impatience at the time and trouble involved. But we must remember that this system is not something conceived by the brain of one man at a single stroke and put in operation to see by how devious a route a settlement of differences can be reached. It has had basic, complex conditions in the industry which has caused its *growth*, and we may depend upon it that it is there because it takes less time and trouble and costs less than would might and force. It occurs to but few employers that strikes finally have to be settled by talking the trouble over and reaching an

[1] *Southwestern Joint Interstate Agreement*, 1912, p. 3.
[2] Official correspondence.

agreement, and there is no reason why the talking should not be done before the strike. Some employers think that they can ultimately get more after a fight. In that case might and not justice is the criterion, and they must also be of the opinion that they can stem the tide of a social movement which has forced its way to its present position under the most adverse circumstances and in spite of the most determined opposition on the part of the employers. The employers in the coal industry have had to learn by hard experience that the only way to meet the problems before them is to present a solid front to the insistent growth of this movement.

6. THE OPERATORS ASK FOR A "CLOSED SHOP"

In fact, selfish interests and competition between them have proven very disrupting forces even after they have recognized this need. If anybody had said to the Illinois operators fifteen or twenty years ago that they would see the day when they would be asking the union to establish the "closed shop," he would have been considered insane. And yet that is what they have come to. This request has its basis in the recognition that capital must be united in coping with the problems of the industry. Not consolidation, but unity in interests and aims on fundamental policies of the industry is needed. In fact they are trying to resist consolidation of ownership. They also are trying to establish a weapon by which they can curb the tendency to selfishness and undue individualism, which conflicts with the general welfare of both operators and miners as well as of the industry in general. Indeed, the operators have learned that there can be such an individual as a "scab" on the side of capital as well as on the side of labor, and are coming to see his disrupting force just as labor has seen it.

A. The Operators' Offer

In the Illinois State Conference of 1908 the operators brought forth this proposition for the consideration of the miners: —

> The members of the Illinois Coal Operators' Association agree that they will not employ any man for a position for which a scale is made, who shall refuse to promptly become a member of the United Mine Workers of America; . . . and the United Mine Workers of America agree that the members of the organization will not accept employment at any mine, . . . unless the operator is a member of the Illinois Coal Operators' Association.
>
> The foregoing provisions shall be effective not only during the life of this agreement, but also in case a new agreement is not made before the expiration of this one; then these provisions shall remain effective for an additional period of thirty days, and for a period of fifteen days after the termination of negotiations; provided that if after the expiration of this contract western Pennsylvania, Ohio, Indiana, and Illinois are idle, or if each thereof, except Illinois, is at work, then after a hearing to the Illinois Coal Operators' Association before said national organization, the United Mine Workers of Illinois may obey a mandate of the said national organization in conflict with this clause.

B. The Need for the Closed Shop

The operators frankly admitted that their association was in a critical condition and that this request was largely for the purpose of helping them to maintain the integrity of their organization. The miners fully recognized the benefit of the closed shop and considered that the agreement would make a "perfect form of joint bargaining." But the question of cost immediately arose. When the miners were idle their organization was under obligation to pay the men five dollars per week, and they figured that they would be under an expense of at least $200,000

a year in coercing delinquent operators. The operators reminded the miners that their association was subjected to similar conditions when the miners threw an operator's mine into idleness and their expenses under such circumstances were not light. The miners were of the opinion that the task of disciplining a tenacious operator would be a much more expensive process than that of bringing a few miners with small resources into line. The proposition would have sounded much more favorable to them if the operators had been willing to bear part of the expense.

The operators felt sure that no operator in the association would dare to leave the association and fight both organizations. Furthermore, they were convinced that operators outside of the association would come in when this agreement went into effect. The miners virtually had a closed shop, and they argued that what was fair for one side was fair for the other. Besides, it was necessary if the provisions of the contract were to be enforced. Furthermore, individuality of ownership of coal mines was at stake. The ownership of mines was coming more and more into the hands of a few powerful organizations, and with this change it would become more difficult for the miners to maintain the relation which they had thus far been able to establish with their employers. When it came to a régime of concentrated ownership, the miners would find that the costs for coercion would greatly exceed the costs under this arrangement. It was also very questionable whether the miners could bring to terms a few big corporations which proposed to operate their mines with non-union labor.

C. The Legality of the Closed Shop

The miners raised the question of the legality of such an agreement and were of the opinion that the courts would render an unfavorable decision. Judging from the

unfavorable decisions rendered against labor in past years, they were convinced that an operator who wished to withdraw from the association would have little trouble in getting help from "corporation judges," who would jump at the chance to take all the money the miners had in their treasury. They were sorry to admit that "it [had] come to such a pass that few members of organized labor [had] any respect for the courts." They cited a case in which the brickmakers and bricklayers had formed a similar agreement and the court had ruled adversely. Because of a decision rendered against some operators in the northern part of the State who had entered into an agreement which regulated prices and was in restraint of trade, they were fortified still more in their hesitancy. The operators were ready with the citation of a decision of the Supreme Court of Minnesota.[1] They had been informed by counsel that this was the only case which bore on their proposed agreement.

The operators and miners did not propose to interfere with the business of any miner or operator outside of the agreement, and the operators were of the opinion that unless they entered into a combination to fix prices or prevent an operator from getting any labor whatever, they were within their rights. At any rate, the agreement could only be declared "unlawful and void" and not "criminal," since no conspiracy was attempted. The operators pointed out that the press in the West had commented favorably on their suggestion of a closed shop, but it met with condemnation from the press in the East and from Wall Street, which condemns "our dealing with union labor at all." They thought that as a last resort the State would pass a law making it legal, since "What is best for the coal industry of Illinois is best for the State." The clause in the contract as finally agreed on read, "This

[1] *Bohn Manufacturing Co.* vs. *Northwestern Lumberman's Assoc.*, 54 Minn. 223.

contract applies and is effective only between the Illinois Coal Operators' Association and the United Mine Workers of America."[1]

This phase of the subject brings out clearly some of the complications which confront the capitalist, laborer, and public. Mr. Herman Justi, as commissioner of the operators' association, did much to instill in both parties the concept that these agreements were business contracts between labor and capital, and that they should be carried out in a businesslike way. A situation like this was only the logical outcome of such a policy. If strong individualism or powerful corporate growth threatens the system of settling by peaceful means, adjustments must be made to counteract this tendency. On the side of cost to the miners' organization, the miners should have been willing to try the experiment as a protective measure in maintaining the integrity of their own organization and as a check on chaotic conditions affecting the other party to the contract. If it proved too costly, they could retrench, but the chances were just as good that the operators judged the situation rightly; the agreement would hold members of the operators' association in line and bring in those outside. The element among the operators which needed coercion included those who resort to "subterfuges to gain their object, [refuse] to bear their share of the burdens, [do] not hesitate to take advantage of labor, to betray a colleague, or rob a client." It was the spirit manifested by this element which, given free play, was responsible for the period of unscrupulous dealings with miners and among operators before the beginning of the joint conference. Miners and operators suffered alike under such a régime, and it behooves the better element among both parties to devise methods which will not allow resort to force and violence.

[1] *Report of State Joint Convention of Illinois*, 1908, p. 309 *ff.*

7. THE PROBLEM BEFORE THE PUBLIC

On the side of the public, the near future will demand adjustments in our judicial and administrative machinery which will allow capital and labor to cope with the new conditions arising and yet see that the interests of the public are kept in sight. American conditions of life and industry seem to favor a policy of license and liberty that will enable the parties immediately concerned with the development of complex problems to make regulations which can be better arrived at through first-hand negotiation than through absolute paternal control. Yet the fear of paternalism should not be exaggerated. Development of our administrative functions is always far behind the needs of complex conditions. New departments are needed and they should be given sufficient power to protect public welfare.

In summary we may say that it is this complex situation which has greatly aided the growth of organization among the miners and operators and brought them together in interstate joint conferences to adjust difficulties which are of universal application. They have done something for themselves which government could not do as satisfactorily for both parties and yet leave room for innovations. How far complex machinery for conciliation is needed in the various industries depends on the extent of the industry, the universality of the market, the diversity of conditions within the industry, and the amount of strife due to oppression and cutthroat competition.

Parts of this complex method of conciliation can be used in the smallest local industry if the employer is willing to meet his men on a fair basis. The employers in the bituminous coal industry have learned that the labor problem is of sufficient importance to demand a department for the adjustment of labor conditions, and that it is just as valuable as the sales, financial, or construction departments.

It has lessened strikes, brought greater uniformity of cost, and added stability to the industry. Capital here is organizing in anticipation of the growing strength of trade unionism. If a little over ten per cent of the workers can create the furor they already have by organizing, what may be expected from a further growth of this movement? Capital here is constructive by reason of its purpose to deal fairly, conciliate, preserve peace, secure stability, resist tendencies to inconsiderate economic adjustment, and punish those who discredit honest business. Besides, this method, when substituted for force, will cost less. Figuring $300 as the minimum average loss per day for closing a mine, conciliation saves the operators and miners at least $250,000 a year.[1] Carroll D. Wright, in speaking on this point, said that the "ethical effects of friendly settlement far transcend any financial results which can be considered," and that "the harmonious relations of laborers and capitalists are worth more than the success or estimated losses of any or all strikes." [2] Arbitration is a secondary matter in this system of settling disputes, but there are some points which both sides refuse to yield, and therefore an unprejudiced outsider must allow something to each. The system is far from perfect, as is admitted by both parties, but it is growing, and the parties themselves are coming closer to each other with an understanding of opposing viewpoints. Organized labor makes its mistakes, but the employer and laborer can hardly do better, when expecting perfectibility, than to remember Mr. Herman Justi's words: —

If labor in recent years has too often practiced forms of tyranny and has committed acts of lawlessness, if it has forced conditions upon the employer that are oppressive, and has made contracts, as often charged, simply to violate them, and if all

[1] Illinois Coal Operators' Association Publications; *Conciliation and Arbitration in the Coal Mining Industry*, p. 18.

[2] *Ibid.*, p. 33.

these combined evils have become so great that they now seem to call for the intervention of courts and the protection of the strong arm of the Government, let us not forget that in times past it was the arrogance and selfishness so often practiced by the rich and well-to-do that in due course brought on the present conflict between labor and capital. Now exalted public spirit and wise unselfishness to be practiced by the same class must restore peaceful relations and just conditions, at the same time that labor takes heed lest it add crime to folly by seeking revenge for wrongs, both real and fancied, instead of following such a policy of repression, conciliation, and wise business sagacity as the higher dictates of their better natures would suggest, and as all law-abiding and justice-loving fellow citizens would approve.

We have confined our attention to the bituminous field in studying the system of peaceful adjustment, because there the development has gone steadily on, whereas its growth was retarded in the anthracite field until 1902. The factors which prevented the growth of conciliation and arbitration in the anthracite region and hindered the extension of the methods used in the bituminous fields must now engage our interest.

CHAPTER VII

CONCILIATION AND ARBITRATION IN THE ANTHRACITE FIELD

INTRODUCTION

A. CAUSES DEFERRING PEACEFUL ADJUSTMENT

As we leave the bituminous and turn to consider the anthracite field, we find that the early attempts to introduce conciliation and arbitration, which seemed so promising, met with unsurmountable obstacles. The compactness of the anthracite coal field furnished an environment for capital which made concentration and monopoly control much easier than was possible in the bituminous field. The free rein which was given to corporations was an added element in hastening concentration. Capital thus acquired a unified policy. After wealth is once concentrated it can afford to stand large losses in order to win a battle, since it can rapidly recuperate. Besides, those in possession of a storehouse of wealth have but little conception of the precarious position of the man for whom a few weeks' idleness or sickness means hunger and starvation. This element, which enabled the capitalist to look upon the future with little concern and furnished common ground in a battle with labor, was for the laborer a disrupting force which long prevented social cohesion. In conjunction with all these odds the capitalist was in a position to manipulate all the industrial and political machinery for replacing English-speaking laborers with Slavs and Italians. Coöperation from steamship companies easily brought alien laborers here, and, once here, transportation facilities were at hand to rush them to points where they were

needed. If capital could not prevent the passage of laws making contract labor illegal, its lobbyists or henchmen readily saw to it that the laws were so inadequate as to be ineffective. Moreover, court interpretations and decisions often nullified the plain intent of the law. With all this there is no special blame to be attached to capital. It is just plain, selfish human nature given free play. It played a big game without rules or else easily brushed aside the inadequate rules that were made. Individualism ran riot while waiting for the evolution of social policy and the solidarity of labor.

1. FROM THE FORMATION OF BATES'S UNION IN 1849 TO THE CLOSE OF THE CIVIL WAR

The effects of the panic of 1837 lasted into the early forties, but the decade of the forties saw a rise in the trend of wages. This tendency was further accentuated in the anthracite field by the use of anthracite coal as a smelting fuel.[1] In 1849, Bates, an English miner, took advantage of these conditions to organize a union to secure better wages, and to correct abuses such as the company store. Evidently he was not able to endure the continued prosperity due to the introduction of railroads into the coal fields and further expansion of trade, for after the failure of his union in a strike he absconded with the union funds.

We hear of no other organization until 1860. In the late fifties wages had declined and the introduction of old and new abuses caused "a degree of suffering and bitterness never before known in the region."[2] In the next decade changes took place which revolutionized the industry. An increased demand for coal during the war attracted larger amounts of capital. This enabled firms to seek coal at greater depths and to use machinery for mining and

[1] Virtue, *Bulletin of Bureau of Labor*, no. 13, November, 1897, p. 730.
[2] *Ibid.*, p. 730.

preparing the coal for market. Along with this there developed a consolidated ownership of coal lands and railroads. The checking of immigration and the demand for men in the war lessened the labor supply. The inflated currency, along with the natural demand, enabled the operator to get big prices and pay contract miners' rates, which brought them from $150 to $250 per month.[1]

Under such conditions the miners would not require a very strong organization in order to make the demand for more wages heard. But the miners had made a beginning at organization in 1860. In that year the employees of the Forestville Improvement Company formed a union which held together till 1864.[2] During the years of the Civil War several local unions were formed, and they were active in gaining increases in wages to offset the high prices of that period.

2. BEGINNING OF ARBITRATION, 1869 TO 1875

A. Workingmen's Benevolent Association

With the falling off of demand at the close of the war, the return of men from the armies, and the fall in prices, these local unions were brought together in an effort to resist the arbitrary reductions of the operators. Pressure by the workingmen of Pennsylvania on the legislature of 1867 brought a law making eight hours a legal day's work. But the employers had been able to enforce the insertion of a provision making the law applicable only in cases where there was no agreement to the contrary. The law went into effect July 1, 1868, and the miners were determined that it should really be effective. They called a convention in the early part of 1868 to create sentiment and to form an organization which should lend its influence to the enforcement of the law. The organization

[1] Virtue, *Bulletin of Bureau of Labor*, no. 13, November, 1897, p. 731.
[2] *Ibid.*, p. 732.

effected at this convention was known as the Workingmen's Benevolent Association, and its constitution provided for a sick benefit of five dollars per week and thirty dollars for the burial of a member.[1]

A strike was inaugurated to resist reductions and to make this law effective. The proviso that the law should be inoperative if the contracting parties agreed to other regulations necessitated concerted action on the part of the workers. The eight-hour law was no great boon to the contract miners, for they spent eight hours or less in mining enough coal to keep the loaders and other workers busy ten hours. But its chief importance would be to limit the overproduction somewhat and to distribute the work over the year to a greater extent. The strike was unsuccessful, but the suspension from July to September depleted the market to such an extent that the miners were able to resume work at their old rates.[2] By the autumn of 1869 the union was said to have enlisted 30,000 members out of the 35,000 anthracite workers.[3]

B. The Anthracite Board of Trade

It was definitely recognized by 1867 that the operators were organizing into associations, and by 1869 they became known as the Anthracite Board of Trade.[4] The same year the operators' association proposed a reduction of wages to the union, but the miners had learned something from the strike of 1868. Instead of acceding to the reduction the miners proposed by the use of suspensions to keep the market steady and healthy and enable the operator to get a "fair interest on investments and at the same time receive for our share a fair day's wages for a fair day's work."[5] The suspensions became general from April

[1] Roy, *op. cit.*, p. 77.

[2] *Report of Secretary of Internal Affairs of Pennsylvania*, 1881, p. 286. A reprint of the Report of 1872.

[3] Roberts, *The Anthracite Coal Industry*, p. 176. [4] Virtue, *op. cit.*, p. 732.

[5] Virtue, *op. cit.*, p. 735, quotes an order to resume work.

to September, but the good effects to the market were lessened somewhat by the continued production of the Pennsylvania Coal Company and the Delaware, Lackawanna, and Western Coal Company. These companies by offering liberal wages succeeded in getting their men to break faith with the union.[1] This policy of suspensions met with considerable public criticism. The order to resume work, besides embodying an explanation of the intentions of the union, called attention to the risk and danger of the occupation and the resulting strikes and distress which arose from overproduction. The operators' association raised but little objection to this policy, because they recognized that too much coal was being mined. But later, when the occasion suited them, they pointed to the policy of the union as an act of tyranny and the occasion of great loss to them.[2]

C. The Sliding Scale

In May, 1869, the General Council of the Workingmen's Benevolent Association proposed to the Anthracite Board of Trade that wages be governed by the selling price of coal.[3] This would involve the formation of a sliding scale providing that wages fluctuate automatically with prices. It was hoped that this arrangement would remove one of the chief sources of friction between employer and employee. The adoption of a scale in the Lehigh region provided that an average selling price of five dollars per ton at Elizabethport (tidewater) should form a basis. For every dollar advance in the price of coal the wage-earner received fifteen per cent increase in wages. With the advance of a fractional part of a dollar the workers received a corresponding fractional part of the fifteen per cent. The basis for the Schuylkill region was

[1] *Report of Secretary of Internal Affairs of Pennsylvania*, 1881, p. 287.
[2] Virtue, *op. cit.*, p. 735.
[3] Weeks, *Massachusetts Report on Statistics of Labor*, 1881, p. 24.

three dollars, i.e., the average selling price of coal at Port Carbon on the Schuylkill River. The difference of two dollars in the basing points was to allow for freight rates.[1] Wages increased five per cent in the Schuylkill with every advance of twenty-five cents in the selling price of coal. In both cases there was to be no reduction of wages when the selling price went below the basis. The basic prices for day labor were: "outside labor," $11 per week; "inside labor," $12; and $14 per week for miners when not engaged in contract work. The miners of the northern field did not have sufficient strength to secure the sliding scale.

Hardly had the scale been put into operation before the fundamental question of the justice of the basis arose. And with dissatisfaction over that matter the whole question of wage adjustment was again open. Those who had expected great things of the sliding scale were sadly disappointed. The operators were the first to express dissatisfaction, and in December, 1869, offered as a basis two dollars per ton at Port Carbon[2] with a corresponding decrease in day wages. This action, along with the attitude of the operators in a recent prosecution of members of the union under the conspiracy laws, was regarded by the miners as an open declaration of war. The union refused to consider such a heavy reduction, and after several months' suspension, President Gowan, of the Reading Railroad, induced the operators to accept a compromise. The three dollar per ton basis was retained, but the union made the mistake of accepting a provision allowing the scale to slide below the basis as well as above. With the minimum wage gone, the miners had to bear the brunt of overproduction and competition.

[1] Weeks, *Massachusetts Report on Statistics of Labor*, 1881, p. 24.

[2] *Report of Secretary of Internal Affairs of Pennsylvania*, 1881, p. 291.

D. The Reading Railroad attempts to stop the Struggle

During the suspension in the Lehigh and Schuylkill regions the operators of the northern field had been able to keep their men at work by their old tactics of increased wages. When the other fields began producing to their full capacity, the northern operators demanded a thirty per cent reduction in wages to enable them to meet the competition. The president of the Delaware and Hudson Canal Company defined the issue thus to a committee of the Workingmen's Benevolent Association: "The only question involved in the issue is whether the property shall be controlled and the policy of the company determined by the owners, or whether it shall be committed to the care and direction of an irresponsible organization, and in determining this question the managers are strong in the belief that the stockholders can have but one opinion."[1] The northern miners struck and appealed for aid to the other fields, which they had betrayed. Nevertheless, the Lehigh and Schuylkill miners, recognizing the need for united action over all the fields, decided to suspend work in order to bring about a general agreement. The northern fields, instead of insisting on a general agreement, went to work at the company's terms[2] after suspending from January (1871) to May.

This practically put an end to the union in the northern fields. Meanwhile the southern fields after a month's suspension had brought some of the operators to the point of conceding the three-dollar basis. But when the coal of these operators was offered for shipment, it was found that freight rates had risen to such an extent that it was impossible to carry on business at the market prices. In fact the advance was so great that coal could not have

[1] Roberts, *The Anthracite Coal Industry*, p. 179.

[2] *Report of Secretary of Internal Affairs of Pennsylvania*, 1881, p. 296.

been sold for less than twelve dollars per ton.[1] The Reading Railroad was supposed by some to be animated purely by the desire to regulate the trade and secure steadiness in the market.[2] By others it was pointed out that the railroad had been buying heavily in coal lands and proposed to use the occasion to force out of business certain operators and secure profits by increased prices. The example of the Reading was followed by other roads and their action caused such a storm of protest among both operators and miners that the legislature proceeded to investigate conditions. The investigating committee found that they were prohibited from any action because the State Supreme Court had decided[3] that "tolls," the term used in the charter of the railroad, referred to carrying passengers and not to freight. Therefore no restrictions could be placed upon freight. Perhaps some of the motives prompting President Gowen may be explained in his words to the legislative committee. After describing the conditions of overproduction and surplus labor since the Civil War, he makes the Workingmen's Benevolent Association entirely responsible for the lack of proper adjustment of the whole situation: —

> We, who thought we understood something of the laws of trade, and knew that natural causes would soon bring relief, remonstrated with the leaders of the organization in vain. The law of supply and demand and every sound maxim which the experience of trade has demonstrated to be correct, were thrown to the winds; and from the bowels of the earth there came swarming up a new school of political economists, who professed to be able during the leisure hours of their short working day, to regulate a great industry and restore it to vigor and health. In the wildest flights of imagination of the most pretentious

[1] Lloyd, *Lords of Industry*, p. 234, quotes investigation of State Senate of Pennsylvania, 1871.

[2] *Report of Secretary of Internal Affairs of Pennsylvania*, 1881, p. 296.

[3] *Boyle* vs. *The Philadelphia and Reading Railroad Company*, 4 P. F. Smith, 310.

charlatan there never was conceived such a cure for the ills with which we were afflicted as was suggested by these new doctors. In their hands, however, we were powerless, and with the eagerness of a student and the assurance of a quack, they seized upon the body of a healthy trade, and have so doctored it and physicked it that it is now reduced to the ghost of the shadow of an attenuation.[1]

It was suggested at the time that the railroad did not propose to pay the wages in its collieries which the other operators were willing to pay.[2] Perhaps it also occurred to Mr. Gowen that one of the best ways of avoiding such a contingency would be to start a campaign for ultimately crushing the union. Of this we shall see more later.

E. Settlement by Arbitration

While the legislative investigation was in progress some of the operators had ignored the union officials and sought to make a direct settlement with their men. This brought no response and the continued deadlock aroused the public to demand some form of peaceful settlement. The initiative was taken by Mr. E. B. Coxe, an operator who had published a series of articles on arbitration in the "Anthracite Monitor," the miners' paper.[3] Mr. Coxe's efforts and the general pressure of public opinion brought together a joint board of operators and miners representing all of the anthracite counties, April 17, 1871. Judge William Elwell was selected to act as arbiter in the case of a disagreement. His services were soon called for to settle upon the extent to which the union had a right to interfere with the working of the mine, its policy toward non-union men, and the treatment accorded to the union by the operators. The rule of exclusive control and management by the operator was laid down, and the refusal of the union to work with non-union men or members of

[1] Quoted in the *Nation*, May 25, 1871, p. 352. [2] *Ibid.*, p. 255.
[3] Roy, *op. cit.*, p. 92.

the union who would not pay their dues was decided as "contrary to the policy of the law, and subversive of the best interests of the miners and their employers." It was stated that "operators *ought not* in any manner to combine against persons" who belonged to the union and that no member "*ought* to be deprived of his work" because of his official duties in the union. The operator who was guilty of these practices would "thereby give good grounds for censure, and for other members to refuse to work for him."[1] This policy would no doubt work admirably, if the operator felt inclined to pursue it.

The question of wages had been deferred because some of the miners' representatives had not been granted the power to settle upon it. The attempt of the operators again to ignore the officials implied that they thought the blame for further suspension lay with them. But the officials were more conservative than their followers and they had difficulty in directing them along reasonable lines. However, another joint conference concerning wages and the sliding scale referred matters to the arbiter. He split the difference in the demands and included a provision for district boards of arbitration which should settle all disputes arising under the scale. It was also provided that there should be no suspension of work while settlement was going on. The establishment of the basis price was arrived at each month by selecting the average selling prices of five operators. Two operators and two miners made the selection from the entire list of operators by casting lots.[2]

F. The Break-up of the Union

A. THE INADEQUACY OF ARBITRATION

The award had provided that a basis of $2.75 per ton at Port Carbon should mark the point at which wages

[1] Decision quoted by Weeks, *op. cit.*, p. 36. Italics mine.

[2] Weeks, *op. cit.*, p. 39.

were to begin to increase and they should decrease until coal sold at $2.25. After this point was reached there should be no further reduction in wages. The general feeling of satisfaction over the settlement was soon turned to chagrin by a dispute which arose at the Thomas Coal Company's colliery. Coal had fallen in price and the miners' leaders, in violation of the award, refused to accept a reduction below the $2.75 basis. The demands of the men were promptly granted and this concession led the miners at other collieries to seek similar terms. The other operators granted concessions, and the men over the whole field felt that arbitration had not established a just basis. The efforts of the union officers and the officials of the Anthracite Board of Trade to hold their respective parties to the award were fruitless.

B. CONCENTRATION OF OWNERSHIP

There were several other factors besides the inadequacy of arbitration which led to the break-up of the union. The united force of concentrated wealth, though this was just beginning, proved to be a stronger power than the union was able to cope with. An agreement was arrived at in 1872 with difficulty, for each party had lost faith in the intention of the other to abide by the contract. Yet in this year and in 1873 a settlement was finally reached through the acceptance of reductions by the miners. But for some time influences had been at work which were to put the railroads in absolute control of the anthracite supply. The charter of the Reading Railroad prohibited it from legally carrying on mining. President Gowen determined to get around this handicap and procured for the Laurel Run Improvement Company, May, 1871, a charter permitting its stock to be held by a railroad.[1] Later by a court decree the name of the company was changed to the

[1] *Report on Labor Troubles in the Anthracite Regions*, 50th Congress, 2d Session, House Report no. 4147, p. lxiii.

Reading Coal and Iron Company. The entire stock was owned by the railroad and by 1872 through its instrumentality the railroad had acquired 80,000 acres of coal lands. By 1873 the lands in the Lackawanna Basin were owned mainly by the Pennsylvania Coal Company and the Delaware, Lackawanna, and Western Railroad Company. In the Wyoming basin the Wilkesbarre Coal and Iron Company was fast absorbing the coal lands. The buying of coal lands by the railroads had gone on to such an extent that the new state constitution of 1874 prohibited common carriers from engaging in mining or manufacturing or acquiring lands in freehold or by lease other than was necessary for carrying on their business as carriers.

C. FORMATION OF POOLS

Furthermore, by the formation of pools in 1873 and 1874, the railroads were able to restrict production, maintain selling prices, and deal arbitrarily with labor and thus bring on a disastrous struggle. Evidently Mr. Gowen had been converted to the doctrine of the new economists which he so greatly deprecated before the legislature in 1871. These pools succeeded so well that prices were well supported in spite of the panic and general depression in business.[1]

D. THE "LONG STRIKE" IN 1875

By 1875 concerted action on the part of the combination forced a reduction of wages from ten to twenty per cent and deprived the day laborer of any benefit from the sliding scale. Again the operators of the northern field were able to keep their men at work and take advantage of the so-called "long strike," which lasted from January to July. The men of the Lehigh and Schuylkill regions were aware that a determined attempt was to be made to break up their union, and the struggle was correspond-

[1] *Report on Labor Troubles in the Anthracite Regions*, *op. cit.*, p. xlvii.

ingly resolute. "In the closing weeks of the contest there were exhibited scenes of woe and want and uncomplaining suffering seldom surpassed. Hundreds of families arose in the morning to breakfast on a crust of bread and a glass of water, who did not know where a bite of dinner was to come from. Day after day, men, women and children went to the adjoining woods to dig roots and pick herbs to keep body and soul together, and still the strike went on with no visible sign of surrender. But workingmen must work that they may eat, and must eat that they may work, while capital can wait. The end came at last in the unconditional surrender of the miners. The force of nature could go no further." [1] This statement from a reliable man who knew the real situation makes one question President Gowen's explanation that it was all the work of a few demagogic labor leaders.[2] These demagogues must have had unusual powers to make a people endure such suffering for a cause unless there was some real and pressing economic stress behind it all.

E. PERIOD OF THE "MOLLY MAGUIRES"

Another force which helped to break up the union was the lawlessness of the rougher element. This was during the period of the "Molly Maguires," a secret organization which was ready to inspire terror or do murder in return for an injury. The wildness of the region gave full opportunity for secret murders. The fact that some of the "Mollies" were members of the union was quite sufficient to bring all the opprobrium of their deeds upon the unionists. But it has since been generally recognized that the deeds of the Mollies are not to be associated with the policies or programme of the union.

[1] Roy, *op. cit.*, p. 99.
[2] *Engineering and Mining Journal*, August 14, 1875.

F. THE CONTRIBUTION OF THE WORKINGMEN'S BENEVOLENT ASSOCIATION

Primarily the union stood for collective bargaining. To make collective bargaining effective they persuaded all miners to join the organization and refused to work with non-unionists, who were stubborn about joining. The unionist can see no good reason why a man who automatically receives a higher wage through the collective effort of his fellows should not support the union. But to make the union still more attractive sick and death benefits and payments to widows and orphans were established. The organization was a strong force in uniting the various nationalities then employed. Though they were mostly English-speaking peoples, the differences in nationality and custom were added obstacles to overcome when seeking collective action. This had been accomplished to the extent of making a body of men suffer for six months to bring about better conditions. Coöperative stores were started, but were not very successful. A miners' newspaper helped to encourage unity. The first mine-inspection law was enacted through the efforts of the union,[1] also a law requiring the weighing of coal.[2] With the surrender of the men they were compelled, as a condition of obtaining work, to sign away the right of having their coal weighed. The sliding scale continued in operation, but the determination of the basis and the prices paid to labor were entirely in the hands of the operators till the strike of 1900.

3. HISTORY OF CONSOLIDATION

We have referred to the beginnings of concentration of wealth and ownership in the anthracite region as one of

[1] Roy, *op. cit.*, p. 87.

[2] This was ineffective because of the proviso permitting the parties to contract on another basis.

the causes of the break-up of the union. The force of this factor increased to such an extent as not only to prevent the growth of the union, but practically to control the industrial, social, and political welfare of the region. Leaving out of consideration the selfishness and greed that may have animated the operators, the complex conditions with which capitalists and legislators had to deal made it difficult for them to understand the real situation. They were too close to it. Mighty and rapid changes were taking place in industry. Large combinations of capital not only assumed all the arrogance of individual ownership, but, because they were conducting large enterprises which could not be carried on without immense capital, they believed themselves entitled to greater consideration than the small owners. The suspicion with which the monopolistic tendencies of large corporations were regarded led their representatives before the legislature to emphasize the favors which large organizations conferred upon the Commonwealth and to overawe the simple legislative mind with their mighty projects. In this way the capitalists and legislators were led far away from the consideration of changing social conditions. These factors are fully emphasized in the legislative investigation of 1875, wherein the Reading Railroad was accused of pooling, discrimination, and monopoly control.[1] We need only to turn to a consideration of the legal situation and to the inadequate way in which the legislature met its responsibilities to understand the ease with which the process of concentration could be carried on.

A. Legal Background

a. constitutional provisions, 1874

We have referred[2] to the provision in the new state constitution of 1874 which prohibited railroads from en-

[1] *Engineering and Mining Journal*, August 14, 1875. [2] See *ante*, p. 212.

gaging in mining and manufacturing. The same article [1] prohibited railroads from consolidation with other railroads by purchase of stock, franchises, or property. Nor could they attain the same ends by lease or through ownership by officials. By section 7 they were prohibited from discriminating and rebating, and they were not to have "the benefit of any future legislation by general or special laws, except on condition of complete acceptance of this article."

B. ACTS OF 1874

The party in power was pledged to supplement these provisions by legal enactments. The extent to which this was effected may be judged by the following laws. The act of April 29, 1874, regulating corporations, permitted iron and steel companies to mine and sell coal, but prohibited the ownership or lease of more than 10,000 acres of land. Section 39, clause 1, of the same act limited the capital stock of mining companies to $5,000,000. By an act of April 20, 1874, the officers of dissolved corporations were permitted to convey real estate held by such corporations, and further allowed to consummate almost any kind of a deal if it were approved by the Court of Common Pleas of the county in which the property was located. An act of May 11, 1874, validated charters of "certain corporations" previously granted that "are defective in validity" because of "technical defects and other causes," provided the corporations should hold their charters subject to the state constitution. There was nothing about these laws seriously to disturb the relationship of the Reading Railroad with the Reading Coal and Iron Company (or other railroads with similar companies) or to prevent easy adjustment of future business arrangements. Furthermore, the railroads claimed, according to

[1] Article 17, sec. 4.

the Dartmouth College decision in 1819,[1] that the purchases of coal lands acquired previous to 1874 under their charters could not be invalidated by the legislature.

C. COAL LAND ACTS OF THE EIGHTIES AND THEIR AMENDMENTS

By 1883 the legislature decided to pass an act prohibiting discrimination and rebating by railroads, made it a misdemeanor, and attached a fine not exceeding $2000 and a maximum of two years' imprisonment.[2] With the agitation for national regulation of railroads it was evidently considered discreet to further protect the railroads in their holdings of stocks and property. Moreover, in the case of the Reading Railroad *vs.* Patent,[3] in 1886, the State Supreme Court had decided that the railroad was subject to all the provisions of the constitution. An appeal was taken to the United States Supreme Court, which remained on the docket till January, 1889, when it was dismissed on the motion of the Reading's counsel.[4] In the mean time an act of June 2, 1887,[5] provided that no real or personal property held by a corporation should be escheated to the Commonwealth, whether or not the "beneficial ownership" of such property was in the hands of residents of the State or outsiders. Transportation companies could not have the benefit of this act for more than five years unless they filed with the Secretary of State a certificate stating that the stockholders and directors accepted all the provisions of article 17 of the constitution which pertained to railroads. This law was further supplemented by an act in the same year providing that "conveyances of real estate" by foreign and domestic corporations

[1] *Dartmouth College* vs. *Woodward*, 4 Wheaton, 518.

[2] *Laws of Pennsylvania*, 1883, p. 72.

[3] *Reading Railroad* vs. *Patent*, 2 Central Reporter, 554.

[4] *Report on Labor Troubles in the Anthracite Regions*, 1887-88, *op. cit.*, p. xiii.

[5] *Laws of Pennsylvania*, 1887, p. 302.

"to any citizen of the United States or domestic corporations authorized to hold real estate could be conveyed indefeasibly as to any right of escheat in this Commonwealth, by reason of such real estate having been held by an alien or corporation not authorized to hold the same by the laws of this Commonwealth." [1] This act was amended in 1891 so as to permit conveyances "by the officers of any such corporation after dissolution or expiration of charter." [2] It was amended in 1897 so as to legalize transfers of property made since 1891, and amended in 1903 to validate transfers made since 1897.

D. EFFECTS OF JUDICIAL INTERPRETATION

By 1901, section 4 of article 17, prohibiting consolidation of stock, franchises, and property, had been so maltreated by judicial interpretation [3] that the legislature passed an act frankly permitting corporations to purchase or sell "the shares of capital stock of, or any bonds, securities, or evidences of indebtedness created by, any other corporation." [4] This supplemented a judicial decision in 1897 which applied to section 5 (prohibiting railroads from engaging in mining and manufacturing), wherein the court had decided that the section did not apply to ownership by a railroad of stock in a mining company.[5]

E. RESULTS OF INTERSTATE COMMERCE COMMISSION INVESTIGATION OF 1907

Since the information obtained by the Interstate Commerce Commission in 1907 showed that the ownership of coal properties and stock in coal companies by officers of the Pennsylvania Railroad resulted in grave abuses in discrimination and distribution of cars, the legislature

[1] *Laws of Pennsylvania*, 1887, p. 350. [2] *Ibid.*, 1891, p. 249.
[3] See *Purdon's Digest*, 13th edition, vol. 1, p. 215, for cases.
[4] *Laws of Pennsylvania*, 1901, p. 603.
[5] Purdon, *op. cit.*, vol. 1, p. 215.

sought to remedy this matter. An act was passed forbidding "officers, employers, or agents . . . who have charge, directly or indirectly, of the distribution of cars to own, or have an interest, directly or indirectly, in any operated coal property, or in the stock of any mining or manufacturing company, along the line of such railroad." [1] A small fine and a short term of imprisonment were attached as a penalty. In the same year a law created a railroad commission with powers of investigation and regulation and provided it with accountants, inspectors, clerks, and full working equipment.[2] May 31, 1907, a law was approved which provided, "That an incorporated company doing the business of a common carrier shall not, directly or indirectly, engage in any other business than that of common carriers, or *hold or acquire* lands, freehold or leasehold directly or indirectly, *except such as shall be necessary for carrying on its business.*" [3] Action for violation must be brought by the attorney-general, and the offenders are subjected to a fine of $1000. Another act of the same year prohibited discrimination and rebating and has the same method of enforcement and fine as the former law.[4] Still another act of the same year prohibits further consolidation after 1908 through ownership of stock franchises and property. It must be enforced by the attorney-general, and the offenders are subject to a fine of $1000.[5]

F. ACTS TO "QUIET THE TITLE OF REAL ESTATE"

Evidently these simple provisions had "disquieted" somebody, for in 1909 an act was passed "to quiet the title of real estate, and to enable citizens of the United States, and corporations chartered under the laws of this

[1] *Laws of Pennsylvania*, 1907, p. 359. [2] *Ibid.*, 1907, p. 337.
[3] *Ibid.*, 1907, p. 352. How this may be interpreted is another matter. Italics mine.
[4] *Ibid.*, 1907, p. 352. [5] *Ibid.*, 1907, p. 353.

Commonwealth, and authorized to hold real estate therein, to hold and convey title to real estate, which has been formerly held by corporations not authorized by law to hold real estate in Pennsylvania." [1] These lands shall be held and conveyed "indefeasibly to any right of escheat in this Commonwealth." Somebody must have required considerable "*quieting*," for this identical act, which had been approved by Governor Stuart April 23, 1909, was again enacted and approved by Governor Tener March 7, 1911,[2] and reënacted and approved by the same governor June 15, 1911.[3] Evidently it was thought a necessary precaution to pass the act every time transfers of property were made.

We have given this brief résumé of the legal background simply to demonstrate the practically unlimited sway held by capital in the anthracite region and how little consideration of the law was necessary before consummating the deals which took place between 1874 and 1911.

B. Ownership of Lands

We have referred [4] to the extent of the ownership of lands in 1872 and 1873. The Reading Railroad made good use of the time, so that when the constitution went into effect in 1874 it was in possession of 100,000 acres. As we have seen, from a legal standpoint there was not much to hinder further purchases, and by 1887 the Reading owned 165,189 acres of coal and agricultural lands which had a bonded indebtedness of $160,000,000.[5] After the passage of the laws of 1887, to which we referred on page 217, the railroads extended their mining operations and increased their purchases of lands.[6] By 1896 it was

[1] *Laws of Pennsylvania*, 1909, p. 172.
[2] *Ibid.*, 1911, p. 13.
[3] *Ibid.*, 1911, p. 955.
[4] See *ante*, p. 211.
[5] *Report on Labor Troubles in the Anthracite Regions*, 1887, *op. cit.*, p. xv.
[6] *Ibid.*, 1887, p. xiii.

estimated that 96.29 per cent of the coal lands was controlled directly or indirectly by the railroads,[1] and 90 per cent was controlled by five out of the eleven roads reaching the anthracite fields. In the order of their importance they are — Philadelphia and Reading, 42.25 per cent; Central Railroad of New Jersey, 17.30 per cent; Lehigh Valley, 16.87 per cent; Delaware, Lackawanna, and Western, 6.55 per cent; and the Pennsylvania, 6.24 per cent. As we have seen, laws were passed in 1897 and 1903 to legalize transfers that had been made since 1896.

C. Attempt to Control Production by Pools

A. EARLY ATTEMPTS

The first attempt of the operators to limit production and fix prices was in 1849 when Bates's union was in its heydey.[2] During the fifties and sixties further attempts were made, but with small success. The prime movers in these efforts were "independent" operators, but competition and transportation rates were forces too disrupting for them to attain cohesion and uniformity. With the rise of the Workingmen's Benevolent Association sufficient impetus was given to bring together operators and transportation companies with greater attending success and control. We have called attention to the pools in 1873–75 and the opposition to the union which resulted in its overthrow.[3]

B. COMBINATION OF OPERATORS AND CARRIERS

In 1874 and 1875 allotted tonnage and graduated prices were agreed upon. The proportioning of tonnage limited production and steadied the market, while the increasing prices encouraged buyers to purchase their coal early and distributed production more evenly over the

[1] Roberts, *op. cit.*, p. 65, quotes Griffiths, mining engineer.
[2] *Ibid.*, pp. 70–71.
[3] See *ante*, p. 212.

year. A committee of six was appointed in 1876 to establish monthly prices, to provide for increase or curtailment of tonnage, to collect funds, and to employ an accountant who was to keep tonnage accounts. The tonnage accounts were to be open to inspection at all times, and roads which exceeded their tonnage were to pay $1.50 for each ton in excess of their allotments. Only competitive tonnage was subject to the control of the committee, and each road had full control of its local trade. But each company was held responsible for enforcing the regulations on "independent" operators along its lines.[1] This pool went to pieces in August of 1876, and the remainder of the year and the following year was a period of immense tonnages and low prices, which extended the use of anthracite more widely in Western markets. A pool in 1878 reduced the tonnage to three and a half million tons less than that of 1873, but the absence of a pool in 1879 allowed the production to increase over eight and a half million tons. From 1880 to, 1887, with the exception of 1883, production was well controlled and the roads succeeded in "disciplining" the independent operators into a "faithful adherence to the pool regulations."

C. THE "MORGAN POOL," 1886

But in 1885 the Pennsylvania Railroad was dissatisfied with its allotment of tonnage and was ready to expend $20,000,000 as a war measure against the Reading road to push its lines into Reading territory and get business.[2] This situation resulted in the "Morgan Pool" of 1886. The presidents of the various railroads and large coal companies met at Mr. J. P. Morgan's house, estimated the necessary output for the coming year, fixed a penalty of fifty cents per ton for exceeding tonnage, raised the

[1] *Report on Labor Troubles in the Anthracite Regions*, 1887, *op. cit.*, pp. xlvii–xlviii. Reprint of agreement.

[2] *Engineering and Mining Journal*, January 23, 1886.

price of coal twenty-five cents a ton, and appointed a committee to fix allotments. The Pennsylvania Railroad was mollified by concessions of percentages on the part of the Reading and Lehigh roads.

Since 1887 a "community of interest" in connection with a policy of centralization by stock ownership and interlocking directorates has enabled the roads to conduct their affairs by a "gentleman's agreement."

D. EFFECTS ON PRICES

With the formation of the pool in 1873 there was an increase in average prices of fifty-three cents per ton, with a still further increase of twenty-eight cents the following year. In 1876, with the breaking of the pool in August, the average price nearly approached the mark of 1872, and with the entire abandonment of the pool in 1877 the average price dropped $1.28 per ton. The effective pool of 1880 raised the price $1.83 per ton over the price of 1879 when no pool existed. From 1880 to 1895 the pool prices vary very little, but reflect the troubles of 1886 by a drop of fifty cents per ton.[1] Using the average pool price of $4 for 1886, which is still above the years of competition, it is estimated that an extra charge of $79,767,477 was put upon the public from 1880 to 1884.[2] Although the regulations of the pools were not strictly adhered to, yet the growing recognition of "community interest" and centralization of control had made an "understanding" more and more effective.

D. Lease of Jersey Central by the Reading Railroad, 1883

The Reading road inaugurated the policy of leasing in 1883. The inability thoroughly to control allotments and

[1] *Report on Labor Troubles in the Anthracite Regions*, 1887, *op. cit.*, p. xlix; reprint from Saward's *The Coal Trade*, the accepted authority of the operators and carriers.

[2] *Ibid.*, p. l.

prices by pooling made more definite control necessary. The lease of the Jersey Central for 999 years was in effect from 1883 to 1887. In the latter year the Reading found itself unable to fulfill the terms of the lease, and its affairs were put in the hands of receivers.[1] However, close community of interests was maintained and was extended to the Lehigh Valley road through the stockholders of the Lehigh who also owned stock in the Jersey Central. Down to 1890 business was carried on through tacit or informal agreements.

E. The Jersey Central and Lehigh Valley Leases, 1890–1893

Since the leasing of the Jersey Central in 1883, a New Jersey law had been passed[2] requiring foreign corporations to obtain special legislative consent when leasing domestic corporations. As the Reading was a Pennsylvania corporation, it had to run the risk of being thwarted by legislative action or find a way to evade the law. It chose the latter. Six officers of the Philadelphia and Reading Railroad organized the Port Reading Railroad Company, in November, 1890, with a capital of $2,000,000. They projected a twenty-mile railroad to connect with the Delaware and Bound Brook Railroad and have terminals at a point on the Arthur Kill opposite Staten Island.[3] At the same time the Port Reading Construction Company contracted to build the railroad for $1,500,000 in mortgage bonds and all but four hundred shares of the capital stock. By January 12, 1892, only a few miles of the road had been built, but on this date the Central Railroad of New Jersey leased its main lines and forty tributary railroads for 999 years to the Port Reading Railroad. In re-

[1] *Report on Labor Troubles in the Anthracite Regions*, 1887, *op. cit.*, p. lx.

[2] *Laws of New Jersey*, 1885, p. 324.

[3] *Report on the Alleged Coal Combination*, 1893, 52d Congress, 2d Session, House Report no. 2278, p. 211.

turn the Port Reading Railroad agreed to pay all operating expenses, seven per cent dividends, and fifty per cent of the earnings above these dividends. At the same time a tripartite agreement was made between the Jersey Central, Port Reading, and Philadelphia and Reading, whereby the latter railroad guaranteed the fulfillment of the Port Reading's covenants and promised to direct increased traffic in such a way that the expected earnings would be realized.[1] The Lehigh Valley Railroad was leased February 11, 1892, in order to acquire control of its coal properties and to gain access for the combination's product to the Lake ports. The combination was further strengthened through the acquisition of stock by the President of the Jersey Central in the Lackawanna road, while the president of the latter road became a director of the Jersey Central. By the increase of percentage contracts from fifty-five to sixty per cent, the good will of the independent operators was gained.[2]

Public hostility was at once aroused by the project. Investigations were ordered by Congress and the New York Legislature. The leases were attacked in the Chancery Court of New Jersey and declared illegal. The purchase of a controlling interest in the Boston and Maine Railroad by President McLeod, of the Reading, in an attempt to compete in the New England trade, ran counter to the Morgan interests. This fact, in connection with the distrust aroused among investors, and the events leading to the panic of 1893, made it hard to get funds.[3] This combination of circumstances prevented the consummation of the deal.

[1] *Report on the Alleged Coal Combination*, 1893, 52d Congress, 2d Session, House Report no. 2278, p. 213.

[2] *Report of Industrial Commission*, 1902, vol. 19, p. 456.

[3] *Ibid.*, vol. 19, p. 456.

F. The Temple Iron Company Deal, 1898

In 1898 the independent operators in the Wyoming or northern field became dissatisfied with freight rates and the conditions under which they were obliged to sell their coal. The percentage contracts which had formerly been made were expiring. This furnished a good opportunity to project the New York, Wyoming, and Western Railroad. Chief among the independent operators of this region was the firm of Simpson and Watkins, who owned eight collieries and produced over one million tons a year.

The first step taken to break up the potential competition of this project was the purchase of the capital stock ($240,000) of the Temple Iron Company. This company was operating a small furnace near Reading, but its chief asset was the possession of a charter which permitted it to engage in almost any sort of business.[1] President Baer of the Reading, and the firm of J. P. Morgan & Co. directed the financial manipulation. The capital stock of the Temple Iron Company was increased to $2,500,000 and bonds aggregating $3,500,000 were issued. Simpson and Watkins agreed to sell out for $2,260,000 in stock and $3,500,000 in bonds of the Temple Iron Company. They then deposited their stock and $2,100,000 of the bonds with the Guaranty Trust Company of New York as trustee and received "$3,238,396.66 in money and $1,000,000 in certificates of beneficial interest in the stock of the Temple Iron Company." The stock thus deposited was taken by the various railroad companies "in proportions based on the percentage of the total anthracite tonnage carried annually," and the bonds were guaranteed by J. P. Morgan, William Rockefeller, the Guaranty Trust Company, and others.[2]

[1] *United States* vs. *Reading Co. et al.*, Supreme Court Reporter, vol. 33, no. 4, p. 95.

[2] *Ibid.*, p. 96.

If the projected railroad had gone through, the Erie, the Lehigh, and the Lackawanna would have been chiefly affected, yet the "community of interest" in maintaining the monopoly was sufficient to involve all the roads.

G. The Purchase of the Pennsylvania Coal Company, 1899

For several years the independent operators had maintained an association called "The Anthracite Coal Operators' Association," and through its instrumentality sought to improve their condition. They did not propose to meet defeat so easily, and in November, 1899, a project was started for a new railroad. The largest independent company was the Pennsylvania Coal Company, which produced about 2,000,000 tons and controlled a coal-gathering road of its own, the Erie and Wyoming Valley Railroad. The strongest support was expected from this company in making the newly projected Delaware Valley and Kingston Railroad a success. The firm of J. P. Morgan & Co. was sent out to "bag" the Pennsylvania Coal Company. This was no small task, for the company was capitalized at $5,000,000, had been paying sixteen per cent dividends, and had an accumulated surplus of twice its capitalized value. The agents of the banking house traversed the northeastern regions of Pennsylvania and paid the prices necessary to obtain the stock. It is said the average price per share was $552.[1] The purchase was made for the Erie Railroad, which received the coal property in return for $32,000,000 four per cent fifty-year collateral trust bonds, which were secured by the coal property and the assets of the New York, Susquehanna, and Western Railroad.[2] With this purchase the hope of the independent operators was lost.

[1] *Report of Industrial Commission*, vol. 19, p. 459.
[2] *Ibid.*, vol. 19, p. 459.

H. Railroad Consolidation

A. THE ERIE PURCHASES

Since the policy of leasing railroads had proven a failure, control was sought through purchase of a majority of the stock. In 1898 the Erie road gained control of the New York, Susquehanna, and Western Railroad in this manner, and by its purchase of the Pennsylvania Coal Company obtained the Erie and Wyoming Valley Railroad and all rights in connection with the projected Delaware Valley and Kingston Railroad.

B. THE READING OBTAINS THE JERSEY CENTRAL, 1901

The Reading had too much at stake to be thwarted by its failure to lease the Jersey Central. Obtaining the control of the Jersey Central's nineteen per cent of the total unmined area would give the Reading sixty-three per cent, and a close "community of interest" with the Lehigh Valley would bring it up to about eighty per cent.[1] Accordingly in 1901 the Reading, through J. P. Morgan & Co., obtained 145,000 shares out of a total 272,138 Jersey Central shares at $160, the highest price ever paid for the stock.

From the time of the Temple Iron Company deal up to the recent decision of the Supreme Court, the control of the anthracite production and policy was in the hands of a few men who represented the various companies. The decision simply abolished the Temple Iron Company as a holding company and canceled the sixty-five per cent contracts. As the situation now stands we may say in summary that the Reading owns the entire capital stock of the Philadelphia and Reading Railroad, the Reading Coal and Iron Company, and the majority stock control of the Jersey Central and its subsidiary coal and railroad

[1] 33 Supreme Court Reporter, no. 4, p. 92.

companies. The Lehigh Valley owns the Lehigh Valley Coal Company and is closely associated with the Reading. The Erie owns the Pennsylvania Coal Company and its railroad, the Hillside Coal Company, the New York, Susquehanna, and Western Railroad Company and its coal company. The Pennsylvania Railroad operates through the agency of the Scranton Coal Company and controls 6.24 per cent of the unmined coal. The charter of the Delaware, Lackawanna, and Western Railroad has always permitted it to mine coal, and it controls 6.55 per cent of the unmined coal. This leaves but 3.71 per cent to be controlled by independents. A "gentleman's agreement" will probably continue to control the industry.

This survey enables us better to appreciate the magnitude of the forces with which labor has had to contend in the anthracite field from 1875 to the present time. An understanding of these forces, combined with their ability to utilize immigration and to manipulate political and social policies, will help us to grasp the problems still before us in the anthracite field.

4. IMMIGRATION

A. Its Importance

Before we can understand why the sporadic attempts at unionism during the seventies and the eighties were not more successful, we must take into account the effect of immigration and the way it coördinated with the policy of concentrated capital. In connection with the description of the increase of immigration and its change in character the figures are carried up to 1910 in order to show the growing heterogeneity in the mining population and its influence in preventing solidarity among the workers. We can most profitably approach the subject of immigration as it affected the anthracite mining industry by a consideration of the influences which centered around "contract

labor," the conditions which brought its prohibition, and the ineffectiveness of regulations to protect the American laborer.

B. Contract Labor

A. LEGAL BACKGROUND

In 1864 Congress passed a law for the purpose of encouraging immigration. This bill emanated from the House committee on agriculture and was prompted by the need for agricultural workers. It served a worthy purpose as a war measure when labor was scarce and men were needed for the army. The laborer made a contract to repay his transportation expenses from his wages, and a commissioner of immigration made a contract with the railroads for his transportation.[1] It was thought necessary, however, to provide that no commissioner should hold office who was interested in land or in corporate enterprises.

With the close of the war labor was supplied by the return of the soldiers, and the contract labor law was repealed in 1868. The remarkable industrial development during the seventies and eighties furnished sufficient incentive to keep the stream of immigration flowing. By 1885 the influx of immigrants was pressing with sufficient force on American labor to bring about the enactment of a law prohibiting contract labor. Moreover, the natural flow was considered sufficient without any artificial stimulation. The act was reinforced in 1887 and 1888, but, in 1889, a report by a congressional committee for investigating the contract labor conditions informs us that the law was being evaded because of inadequate administrative equipment. The act of 1891 provided for a superintendent of immigration and inspection. But in 1893 the superintendent appealed to Congress to revise and make the law more explicit and comprehensive and to provide

[1] 38th Congress, 1st Session, House Report no. 56; April, 1864.

for additional means of enforcement. Similar appeals have been made from then on to the present.

B. JUDICIAL INTERPRETATION

However, the commissioner was not long in discovering that other difficulties besides those of administration stood in the way of proper enforcement. In 1900, he says, "the rulings of the courts have greatly narrowed the usefulness of these laws [alien contract labor] by limiting their application to certain classes of labor, and this well-nigh repealed their penal feature as applied to employers violating their provisions."[1] The court rulings had also made it necessary for the laborers to have escaped the vigilance of the officers and to have been landed before the employers were subjected to penalty. Furthermore, the terms "labor or service of any kind" were limited to "manual" labor.[2] Full court dockets, overworked district attorneys, and evasions of the law through technicalities are additional elements that have made the contract labor law a farce.

C. AGENCIES ENCOURAGING EVASION

The easy evasion of the law gave the agencies for encouraging immigration full sway. The inspections made by the Bureau of Immigration have determined beyond a doubt the existence of unscrupulous agencies, encouraged by steamship companies, which make a business of exploiting the ignorant immigrant and encouraging him to come here. Evidence shows that deported immigrants were deflected to other places instead of their native villages in order not to hurt the business of the agencies. There is also plenty of evidence of wholesale shipment of contract labor which was thoroughly instructed in the proper answers to make to official questions. If they failed

[1] *Report of Commissioner-General of Immigration*, 1900, p. 39.
[2] *Ibid.*, 1901, p. 31.

in their instructions the steamship companies did not, however, reject them.[1] Italy regards the United States as a safety valve for surplus population, and restrictions on immigration would cut off the prosperity of whole villages which are supported by money sent from America. Though it is perfectly legitimate for the steamship companies to get business, the United States must be protected from "an energy that knows no rest and a singleness of purpose which considers no results except those of a financial nature."

C. Immigration from Southern Europe

With such a legal situation, with the coöperation of such agencies as are described above, and with full command of transportation facilities, the railroads had no difficulty in getting all the cheap labor they wanted. The concrete figures of population in the anthracite counties tell the story.

Immigrant Races in the Anthracite Region[2]

	1870	*1880*	*1890*	*1900*	*1910*
Total foreign-born .	108,000	109,000	171,000	194,000	267,000
Slav and Italian . .	306	1,925	43,000	89,000	178,000
English-speaking . .	105,000	103,000	124,000	100,000	82,000

The Germans are included in the enumeration of the English-speaking foreign-born because their standard of living is on the same level and they are readily assimilated. From this table it is evident that up to 1880 the competition between the races for a chance to work had not begun. It was the chance to profit by this competition that gave the corporations a powerful weapon in addition to the strength of concentrated wealth.

[1] *Report of Commissioner-General of Immigration*, 1903, pp. 86–96.

[2] Warne, *The Immigrant Invasion*, p. 161.

Then, again, the influx of Slavs and Italians became a constantly increasing factor during the nineties in preventing the growth of organization. Alongside this phenomenal growth up to 1910 there stands an element quite as striking — the decrease in English-speaking peoples. This points to two other considerations. Not only have the English-speaking stopped coming, but a considerable percentage have migrated. The full import of this is easily appreciated when we consider the effect of taking those with union ideals out of the industry altogether. Not only would it hinder the development of a common feeling, but the introduction of heterogeneous elements makes it just so much harder to hold the men to faithful support of an organization. That the influx of foreigners is still a powerful factor in preventing unity, and that it is so felt by the organization, is exemplified by the recent statement of the miners' president, — "There are thousands of men who seek our shores every year and are unloaded into these coal fields. I am now trying to enlist the services of the government to prevent the agents of coal companies meeting men at the ports of entry and rushing them into the coal fields. For what? To defeat the aims and efforts of men who desire to better their conditions."[1] With the perspective of the importance of the consolidation of capital and of the influx of a heterogeneous population before our minds, we are in a position to appreciate the handicaps under which the union movement in the anthracite region labored during the eighties and nineties. That we do not find the same development here as took place in the bituminous field is to be expected, since we know these disruptive forces were growing constantly more powerful. We shall now turn to a consideration of the sporadic attempts at organization in the late seventies and eighties and see the effectiveness of concentrated capital and immigration in overthrowing the most

[1] Speech before the Wilkesbarre Convention, May 16, 1912.

promising attempt to build up a union during the strike of 1887–88.

5. THE LABOR TROUBLES OF 1887–88

A. The Causes

In 1877 the miners of the northern fields had engaged in a three months' strike, using the occasion of the great railroad strike of the same year as an opportune moment to express their grievances. They failed to gain any concessions, and no further serious disturbances took place until 1887. Although the sliding scale was still in operation, the miners had no representation on the board which determined the average selling price and no way of knowing whether the returns were true or false. Furthermore, the men pointed out that the increase in prices was absorbed by the increased freight rates of the railroads. When the rise in prices occurred, the freight rates were raised and the prices at the basis points held to the same level.[1] The miners claimed that though there had been no material change in the rate for mining, yet the increase in the size of the car, unfair "dockage" for stone or other waste in the coal, exorbitant charges for powder, fuses, etc., and abuses in connection with the company store had greatly decreased real wages.

B. Rise of the Knights of Labor and the Miners' and Laborers' Amalgamated Association

As early as 1878 the Knights of Labor had gained 15,000 adherents in the neighborhood of Scranton,[2] and the Miners' and Laborers' Amalgamated Association was organized the following year. The latter organization acquired considerable strength in the middle and southern fields. In 1885 the unions sought without avail to obtain a

[1] *Report on Labor Troubles in the Anthracite Regions*, 1887, *op. cit.*, p. lxxxiii.

[2] Virtue, *op. cit.*, p. 746.

conference with the operators in order to revise the scale. The following year they were refused general recognition, but the frank statement of a committee to the Reading Company that they thought they were not getting the wages due them, considering the market price of coal, brought an advance in wages.[1] Another attempt in 1887 to gain a general conference in order to change the basis of the scale and give the miners representation on the board which determined average prices was met by a flat refusal from the Lehigh operators to consider these demands or to submit the matter to arbitration.[2] The Reading Company, however, met the miners' committee and promised to grant an increase from September 1, 1887, to January 1, 1888. At the latter date the Reading Company was to go out of the hands of the receivers, and the officials would not extend the agreement beyond the first of the year. During these years the unions (as in the bituminous field) were merely local organizations without even an approximation at federation equal to the National Federation of Miners of 1885 in the bituminous regions.

A. INAUGURATION OF THE STRIKE

With the refusal on the part of the Lehigh operators to consider their demands or to arbitrate, a strike was declared (September 10) by the miners of that district, and 10,000 men became idle. The Reading Company in its agreement with its employees had further stipulated that it could not pay higher wages after January 1, 1888, than the Lehigh operators were paying. The Reading miners assented to this proposition, but determined to do all they could to help the Lehigh miners win in order to bring up the general level of wages. To this end the miners contributed and the Reading railway employees were led to

[1] Virtue, *op. cit.*, p. 747.

[2] *Report on Labor Troubles in the Anthracite Regions*, 1887, *op. cit.*, p. lxxxiii.

vote a day's wages on the basis of loyalty to the Reading Company. The men were told by the company's officials that the strike in the Lehigh district would be of great benefit to the Reading Company because of the increased business it would bring in coal and traffic.[1] In fact, this result was attained. The company was able to profit by the rise in prices, and it was able to get out of the hands of the receivers.

B. THE READING COMPANY FURNISHES THE LEHIGH OPERATORS WITH COAL

On the other hand, it was not to the interest of the Reading Company to have the Lehigh strikers win the strike, raise wages, and strengthen the union. Nor could the company afford to enter into an extended war with the Lehigh. The men discovered that the Reading Company was supplying coal to the Lehigh selling agencies and the records of shipments showed that a larger and larger percentage of coal was diverted to other points than Port Richmond, the Reading receiving point.[2]

C. EXTENSION OF THE STRIKE TO THE SCHUYLKILL REGION

Ascertainment of these facts brought together a convention of representative miners and railway men at Pottsville, November 22, 1887, to discuss the situation. It decided that if the Reading Company was allowed to supply the Lehigh operators with coal, the Lehigh miners would be starved into submission in spite of the support rendered by the Reading employees. In the latter part of December an attempt was made to force some Reading employees to load a coal boat of a Lehigh operator. The men refused, and were discharged. Shortly afterward several switching

[1] *Report on Labor Troubles in the Anthracite Regions*, 1887, *op. cit.*, p. cii.
[2] *Ibid.*, p. ciii.

crews were discharged for refusing to move cars. This brought the railroad men out. The trouble was settled within two days by the union leaders and the order given to go to work. But the concessions made by the union officers were interpreted as weakness by the railroad officials. The company had given an order that men who did not report for duty on December 27 would be discharged. Through the delay of telegrams ordering a return to work, over 6000 railroad men were discharged, and on January 1, 1888, due to a failure to reach an agreement, 22,000 Reading miners went out.

D. FINDINGS OF THE CONGRESSIONAL COMMITTEE OF 1888

The congressional committee appointed to investigate the trouble thought the evidence showed that the delayed telegrams were a part of a scheme to precipitate a strike. Its reasons for so thinking were based on the following facts: The Reading had mined its full quota of coal. The increased business had sometimes kept the men on duty eighty hours at a stretch. With the first of the year the demand for coal would fall off, traffic would decline, and a surplus of labor would exist. A strike would give the company an excuse for raising the price of coal and for getting rid of surplus men on the railroad and in the mines. Furthermore, the company was convinced that the union was growing altogether too strong and that the time had come to crush it.[1] The company was sure of a single force that would accomplish this task. When the superintendent of the road was asked why he was so sure the striking men would finally go to work at the company's terms he replied, "Their necessities." Asked if he meant "starved out," he replied that the company did not propose to keep the men out till they starved, but

[1] *Report on Labor Troubles in the Anthracite Regions*, 1887, *op. cit.*, pp. vii, cv.

reminded the committee that "it [was] a necessity for everybody who works that they get work."

The committee found evidence that when the payment was made by the "wagon," there was great variation in size. Where payment was made by the "yard," it meant anywhere from thirty-five to forty-eight cubic feet. Among other abuses there were "dockage," company houses, company stores, company butchers, and company doctors. The committee were exasperated at the unlimited authority given to corporations in the hiring and use of company police, and thought it questionable "whether the Shenandoah 'riot' was not intentionally provoked by the company for the purpose of placing the strikers in the position of offenders, and of thus influencing public opinion in favor of the company."[1]

The committee was convinced that the syndicate controlled, directly or indirectly, all the tidewater lines from the Schuylkill and Lehigh regions except the Pennsylvania Railroad. The evidence showed that competition in rates was eliminated; that production was restricted and prices fixed; that wages were arbitrarily fixed; that the independent operators surrendered thirty-eight per cent of the price of coal for freight; that Philadelphia coal was fifty cents a ton higher than the price at competitive points farther from the mines, and it was estimated that this amounted to an annual excess to Philadelphia on coal consumed of $1,495,000; "and that the Southern buyer [paid] a greater freight rate than the New England buyer." The committee concluded that "it [was] difficult to imagine how the common carrier could commit greater depredations upon national commerce, more flagrant violations of the law, or greater abuses of individual and public rights."[2]

[1] *Report on Labor Troubles in the Anthracite Regions*, 1887, *op. cit.*, p. xciv.
[2] *Ibid.*, p. lxii.

E. THE SETTLEMENT OF THE STRIKE

The operators refused all offers of arbitration that involved the recognition of the union, but the Reading met committees of their own employees. The miners remained out until March and then went to work at the terms offered by the companies. The union organizations were crushed, and those who looked into conditions recognized the part immigration was playing in the industrial situation.

F. EFFECTS OF IMMIGRATION ON THE STRIKE

That such an absolute defeat should have been administered and should have prevented an organization from rising for over a decade points to strongly opposing forces. Besides the conditions described above, the congressional committee of 1888 saw evidence of the force which was to accomplish this result and referred to it thus, "There is, as before mentioned, a superabundance of labor throughout the anthracite regions. Tramps are to be seen on every hand; vagabond squads of Italians, Poles, and Huns . . . throng the mines to compete with Americans for work; hence the wages of the miners tend downward all the time while the price of anthracite moves upward, or at least remains at the monopoly figure which the seven joint carrying and mining companies have been exacting for it of late years."[1] How large a factor this was in making the strike of 1887 unsuccessful is hard to tell, but there were 43,000 Slavs and Italians in the labor market of the region. They had a lower standard of living, were willing to work for less wages, and stood ready to supplant the unskilled and rapidly to acquire the places of the skilled men. Perhaps the enumeration of the Reading mine employees is as good a criterion as any. There we

[1] *Report on Labor Troubles in the Anthracite Regions*, 1887, *op. cit.*, p. viii.

find 5839 Slavs and Italians out of a total 24,734 mine employees.[1]

6. THE STRIKE OF 1900

From the time of the struggle in 1887–88 until 1900, we hear of no further attempts to unite for better working conditions. In the mean time the momentum of the forces of concentrated wealth and immigration which had broken up unionism in the seventies and eighties was increasing. The natural evolution from local to national organization found no chance for expression because there was not enough local solidarity to build on. In fact the régime of individual bargaining which was in full sway was aggravated to such an extent by the introduction of an ever-increasing foreign element with different languages, customs, and ideals, that even the common sympathy necessary to local organization was wanting. Not until adverse working conditions had forced the recognition of a common lot and made the many nationalities receptive to the teachings of the United Mine Workers did there appear sufficient unity to warrant a struggle.

A. The Work of the United Mine Workers

When we consider the factors that have entered into the situation since 1875, the wonder is that anything effective was accomplished in the strike of 1900. That sufficient homogeneity was attained to enable the men to stand together for any length of time points to a stronger influence than a common feeling attained as the result of social contact or through political or educational institutions.

The United Mine Workers of the bituminous field had felt the effects of the anthracite coming into their markets during their early struggles, and this, without doubt, was one impelling force which drove them to organize the

[1] Warne, *The Slav Invasion*, p. 63.

anthracite miners. During the early and middle nineties, however, their desultory efforts had brought only ninety-four locals into the fold. In 1899 the problem was attacked with greater vim. National organizers and members of the executive board were permanently stationed in the anthracite field, and the region was organized into three districts with the regular local officials to direct the work. In spite of this well-laid campaign only 8000 out of the 142,000 workers were brought into the organization before the strike.[1]

B. Disrupting Factors

There were many factors which made greater results impossible. In the first place there were fourteen nationalities with different languages and different standards of living, different customs, and different religions. The distrust and jealousies that accompany such factors were almost insurmountable. The living participants in past strikes sounded the warning of past failures. The fear of arousing the wrath of the employer and the relentless blacklist made the bravest hesitate, especially those who had family obligations and permanent domiciles. The ghost of surplus labor stalked near and brought distrust among fellow workmen even of the same nationality, for there is no force so disrupting as the dread of hunger and starvation.

C. Economic Pressure

That 142,000 men did respond when the strike order was given shows the pressure of adverse working conditions. This pressure was strong enough to overbalance the disruptive factors which would naturally make united action impossible in a heterogeneous population. In the middle and southern fields, where the sliding scale was in operation, out of 153 drawings[2] since January 1, 1888,

[1] Mitchell, *The Independent*, vol. 52, p. 2614. [2] See *ante*, p. 236.

to establish wages, "8 resulted in payment of basis wages, 44 in advance upon that rate, and 101 in a reduction therefrom." [1] The miners, having no voice in making the scale, had lost all confidence in its working justice, and they demanded its abolition. The items in the miners' demands point to other pressing factors. An increase of twenty per cent was asked for those laborers receiving less than $1.50 per day; fifteen per cent for those receiving $1.50 to $1.75 per day; and ten per cent for those receiving more than $1.75. Besides the necessity for this increase in money wages and adjustment to meet increased cost of living, there were other factors affecting real wages which needed attention. It was of considerable importance to them that 2240 pounds instead of 3360 pounds should be considered a ton. To see that this was brought about, it was necessary for them to employ a checkweighman who was also to see that the amount of "dockage" for impurities was fair.[2] A reduction in the price of powder from $2.75 to $1.50 a keg was demanded. This would enable the operator to supply the men and obtain a proper return on his investment, since it only cost from 90 cents to $1 per keg. The existence of the company store, deductions for the company doctor,[3] and compliance with the state law which required semimonthly payment in cash, all affected real wages. Here was the driving force which acted upon all nationalities. It only needed harnessing.

D. Negotiations for Settlement

In 1900 the miners of the northern field petitioned President Mitchell to call a strike. After conferring with leaders of the other districts he decided that the time was

[1] Virtue, *Journal of Political Economy*, vol. 9, p. 7.

[2] The miners were still suffering from the want of such regulations in the face of the fact that the state laws permitted them.

[3] One firm is quoted as making $16,000 profit a year through deductions for the company doctor. Mitchell, *The Independent*, vol. 52, p. 2614.

not opportune. A convention of delegates from all three districts was called on August 13 which formulated the miners' grievances and invited the operators to meet them in joint conference on August 27. The operators paid no attention to this request, and the convention sought permission of the national executive board to strike if the leaders were not able to negotiate a settlement within ten days. From the time of the convention till September 12, every honorable means, including an offer to arbitrate, was used to effect a settlement. Pressure from political sources and the expressions of the press were without avail. The operators thought that not more than ten per cent of the men would respond to a strike order. On September 17, the day the strike went into effect, 112,000 employees struck, and at the time of the settlement, October 29, 140,000 men were idle. The operators refused to recognize the United Mine Workers as an organization, claiming that it was a bituminous organization whose officers were not acquainted with the anthracite industry and whose superior number should not be allowed to control the anthracite policy. But President Mitchell pointed out to them that the anthracite members had become numerically stronger than the bituminous membership, and further offered to let the negotiations take place between the operators and committees of their own men, provided that they met in the same city, at the same time, so that general conditions could be established.[1]

E. Settlement of the Strike

The operators did not take advantage of any such arrangement. They did not propose to recognize the union. Notices were posted at all the most important collieries stating that an increase of ten per cent would be granted and powder would be reduced from $2.75 to $1.50 per

[1] *United Mine Workers' Journal*, September 27, 1900. Reprint of statement to the public.

keg in the northern and middle fields.[1] Since 1,372,691 kegs were used in 1899, this was rather an important concession. The sliding scale was abolished in the middle and southern districts,[2] but the other abuses that affected real wages remained. Since the state laws were ineffective, the concerted action of the union was necessary to bring about the abolition of the abuses.

7. THE STRIKE OF 1902

A. Preparation for Another Struggle

The settlement of the strike of 1900 had left both parties with the feeling that a truce had been declared on the real issues. The operators, in anticipation of another struggle, began the erection of stockades, storage houses for coal, and washeries. They felt that the "union was nothing but a fighting machine to be fought, and the demands of the union nothing but an increase in wages and a reduction in dividends. . . . They understood the art of obtaining low wages, but they utterly failed to comprehend the new spirit which would resist oppression at no matter what cost in suffering and privations."[3] In some cases the companies who had a large number of non-union men who remained at work, blacklisted union men after the strike, and those who had few non-unionists discharged them. Agents in the employ of the companies circulated among the unionists and kept their employers informed. A campaign was on foot to bring the United Mine Workers to the same fate which the previous unions had met.

In 1901, through the mediation of Senator Hanna, several of the railroad presidents, Mr. Mitchell, and the district presidents were brought together. In this conference

[1] Powder had been reduced to $1.50 by the Reading Company shortly after the congressional investigation of 1887–88.

[2] The sliding scale had never been used in the northern field.

[3] Mitchell, *Organized Labor*, p. 369.

it was agreed that the settlement of 1900 should continue for another year, and the union leaders left the meeting hoping that another year would find the operators in a frame of mind to grant recognition to the union and negotiate with its leaders.

B. Negotiations of 1902

A. Operators' attitude toward a joint conference

In response to an invitation to take part in a joint conference at Scranton, March 12, the operators declined by formal letters. The burden of the replies centered around their unwillingness to do more than adjust grievances with committees of their own employees. They thought it impracticable to form a wage scale for the whole anthracite region because of variability in working conditions and costs of mining. Furthermore they objected to having their relations with their employees disturbed every year for, so far as they were aware, their employees were "well satisfied with their present rates of wages, their hours of work, and the general conditions under which they perform their work for us."[1] Neither could there be "two masters in the management of business," and the adjustment of wages and working conditions did "not call for the intervention of the organization which you, Mr. Mitchell, represent." These statements show how far the operators were from an understanding of the principles of conciliation and the place it has in industry.

B. Meetings arranged by the Civic Federation

From March 18 to 24 the miners held a convention at Shamokin, Pennsylvania, and formulated their demands. They asked for recognition of the union, an increase in

[1] *Report of Anthracite Strike Commission, Bulletin of Bureau of Labor*, no. 46, p. 219.

wages, the weighing of coal, and a uniform scale, and they appealed to the National Civic Federation for its mediation. At a conference arranged by the Civic Federation the operators stated their position in three propositions. They promised not to discriminate against unionists, and insisted that union men should not refuse to work with non-unionists. There should be no deterioration in quality of work or restriction in quantity of product. Since varying conditions rendered uniformity impossible, each mine should "arrange either individually or through its committees with the superintendents or managers any questions affecting wages or grievances."[1] After discussing at great length the general relations of labor and capital, the conference adjourned for thirty days, and another meeting at the end of that time brought no further results. A subcommittee consisting of the presidents of the Lehigh, Lackawanna, and Reading companies, the three anthracite district presidents, and Mr. Mitchell, debated the question further for two full days, but reached no settlement.

C. THE FIRST OFFER TO ARBITRATE

The union officials during these conferences, as a last resort, and to avert the suffering attendant upon a strike, had offered to reduce their demands to a ten per cent increase in wages and a nine-hour instead of an eight-hour day. But this was mistaken for weakness and cowardice, and "one of the railway presidents predicted that, come what might, the men would not strike, but would submit to any rebuff."[2] This idea was probably encouraged by the offer to arbitrate which was extended by the union officials. They offered to accept a board of five selected by the National Civic Federation to settle upon the questions in dispute, or to trust the fairness of their demands to a

[1] *Report of Anthracite Strike Commission*, *op. cit.*, p. 33.
[2] Mitchell, *op. cit.*, p. 373.

committee consisting of Archbishop Ireland, Bishop Potter, and the two to select a third. If the committee should decide "that the average annual wages received by anthracite mine workers are sufficient to enable them to live, maintain and educate their families in a manner conformable to established American standards and consistent with American citizenship, we agree to withdraw our claims for higher wages and more equitable conditions of employment, providing that the anthracite mine operators agree to comply with any recommendations the above committee may make affecting the earnings and conditions of labor of their employees."[1] In reply most of the operators stated that they had posted notices promising to continue to pay the wages granted in 1900, and one operator reminded the union leaders that "anthracite mining is a business, and not a religious, sentimental, or academic proposition." Furthermore, since the business management of the company was supposed to be in the hands of the president and directors, "I could not if I would delegate this business management to even so highly respectable a body as the Civic Federation, nor can I call to my aid as experts in the mixed problem of business and philanthropy the eminent prelates you have named."[2]

D. ORDER FOR TEMPORARY SUSPENSION

When the union officers saw that peaceful overtures had failed, an order for a temporary suspension was issued to take effect on May 12. A convention was called for May 15, and at that meeting the delegates voted to continue the suspension in spite of the advice of their president to wait till autumn, which would save the miners and the public from the hardships of a protracted conflict.[3]

[1] *Report of Anthracite Strike Commission, op. cit.*, p. 34. [2] *Ibid.*, p. 35.

[3] Mitchell, *op. cit.*, p. 373. He "was even in hopes that by that time the operators would see the folly of their course and make concessions."

In obedience to the strike order 147,000 employees ceased work. The engineers, firemen, and pumpmen who keep the mines in working order were not called out. But by June 2, they had not been able to get any modification of their wages or long working day[1] and they were called out at their own request.

Efforts at mediation were continued by the Civic Federation, and in June, with the rise in prices and the complaints of the public, Carroll D. Wright, Commissioner of Labor, was delegated by President Roosevelt to inquire into the situation. His report justified the demands of the men in part, but no action was taken, nor was it made public until much later.

C. The Special Bituminous Convention

The anthracite miners had expected help from the bituminous field, and as the strike held on into July a considerable demand for a sympathetic strike was heard. With a request from five districts, President Mitchell was obliged to call a national convention, and in response to the call a special convention assembled at Indianapolis July 17 to consider the anthracite situation. With the increasing distress in the anthracite field and the knowledge that a general coal strike would deprive the railroads of fuel and soon bring them to terms, the union officials had no small task on their hands to thwart the movement for a sympathetic strike. The wiser and stronger officials saw in the contractual system that they had been building up in the bituminous field something which should not be thrown aside lightly. They had just made a contract which extended till April, 1903, and both operators and miners had preached the inviolability of contracts to their followers. Over against this the argument of self-preservation was placed, and its adherents predicted the destruction of the organization in the bituminous field if failure was met

[1] Twelve hours and on alternate Sundays twenty-four hours.

with in the anthracite regions. President Mitchell in his address to the convention answered this argument by reminding his followers that "a disregard of the sacredness of contracts strikes at the very vitals of organized labor. The effect of such action would be to destroy confidence, to array in open hostility to our cause all forces of society, and to crystallize public sentiment in opposition to our movement."[1]

Instead of entering upon a questionable policy, the miners decided to do the practical thing. From an authorized appropriation out of the national treasury and gifts from state organizations, $110,000 was put into the hands of the anthracite district presidents for immediate relief work. The districts, subdistricts, and locals were asked for donations from their treasuries. An assessment of ten per cent of the gross earnings of all members who were working and twenty-five per cent of the officers' salaries was levied. Local committees were appointed to aid the anthracite men to get work and solicit local contributions. An address was issued to the public setting forth the inviolability of contracts, appealing for aid, and reminding the people of the power of public opinion. "No class of men realizes more than we do the great power of public opinion. Its influence is potent for good or evil in accordance with the manner in which it is used. No right can be secured and maintained without its support, and no wrong can long exist that meets with its concentrated opposition."

D. Misunderstanding and Discontent

Through an overestimate by the newspapers of the amount of money that would be contributed by the vote of the convention and the time of its payment, a basis was laid for discontent and brought about a very critical situation in the month of August. The miners received their

[1] *Minutes of Special Convention to consider the Anthracite Strike*, p. 39.

pay semimonthly and the money earned in the last half of July would not be paid until August 15. These circumstances led the anthracite miners to believe they would get more than they did per week, made the public slow in contributing, and gave the agents of the operators a chance to sow discontent by intimating that the money was withheld.[1] Mr. Mitchell has expressed the opinion that the strike would have collapsed at that time if the operators had opened the mines. But explanation of the circumstances from the officials, accompanied by advice to maintain the peace, held the men in line till the contributions began to come in.

E. Conference called by President Roosevelt

As the strike held on through September, and the suffering of the poor through the rise of prices became more apparent, every influence was brought to bear to effect a settlement. The operators maintained that they had nothing to arbitrate and that they were prevented from conducting their business by the terrorism and violence of the miners. No effort seemed to be effective until President Roosevelt invited both parties to a conference at the White House on October 3. The President placed before the miners and operators a statement that a third party, the public, was deeply concerned with the situation. He disclaimed legal right to call them together, but appealed to their patriotism and their sense of responsibility to the public. This was met on the part of the miners by an offer to submit their claims to a tribunal named by the President and abide by the award even if it went against them.

The operators reiterated their claim that the violence and terrorism practiced by the miners made it impossible to mine coal. They reminded the President that "the constitution of Pennsylvania guarantees protection to life

[1] Mitchell, *op. cit.*, p. 380.

and property. In express terms it declares the right of acquiring, possessing, and defending property to be inalienable." Furthermore, it was the duty of the President "to reëstablish the reign of law" and "to suppress domestic violence. You see there is a lawful way to secure coal for the public. The duty of the hour is not to waste time negotiating with the fomenters of this anarchy and insolent defiance of law, but to do as was done in the war of the rebellion, restore the majesty of law, the only guardian of a free people, and to reëstablish order and peace at any cost."[1] Furthermore, the civil branch of the United States Government should "institute proceedings against the illegal organization known as the United Mine Workers' Association," and prosecute it under the Sherman Anti-Trust Law.[2]

F. The President appoints a Commission

The attitude of the operators called forth a storm of indignation which they had not foreseen. It was further encouraged by the fact that a few days after the conference the miners assembled in mass meeting to vote on the question of returning to work, and although the Governor of Pennsylvania had thrown 10,000 soldiers into the anthracite region to make it possible for those who wished to return to work to do so, 150,000 voted to continue the strike until their demands were considered.[3]

On October 6, President Roosevelt, through the Honorable C. D. Wright, asked Mr. Mitchell to induce the men to return to work, promising that a commission should be appointed to investigate conditions and that every influence should be brought to induce the operators to accept its findings.[4] Mr. Mitchell concluded that this course

[1] *Report of Conference between the President, the Anthracite Operators, and the Representatives of the United Mine Workers*, p. 6. Reprint of written statements.

[2] *Ibid.*, pp. 11, 15.

[3] Mitchell, *op. cit.*, p. 389.

[4] *Ibid.*

would be inadvisable, since the operators had not promised to accept the findings and the President had no legal authority to enforce them.

Meanwhile efforts were made to bring the operators to terms. Mr. Root, Secretary of War, was sent to interview Mr. J. P. Morgan, and as a result of this interview Mr. Morgan called on the President on October 13 and submitted the following proposition. The President should appoint a commission of five to be composed of an officer of the United States Engineering Corps, an expert mining engineer, one of the judges of the United States Courts for the Eastern District of Pennsylvania, a sociologist, and a man who had engaged in mining and selling coal. As soon as the commission was appointed the men were to return to work pending the award. This proved acceptable to the miners except that they insisted that labor be recognized and asked to have the number on the commission increased to seven. This would afford an opportunity to give labor recognition and appoint a Catholic prelate as a member. The addition of the latter would increase the confidence of the men (most of whom were Catholics) in the award. With these preliminaries agreed on, the proposition was submitted to the miners' convention, and ratified, and the men reported for work October 23.

G. The Award of the Commission

After an extended investigation of actual working conditions and examination of 558 witnesses the commission rendered the following award.

The contract miners were granted a ten per cent increase in the rates for "cutting coal, yardage, and other work for which standard rates or allowances existed." The men had asked for a twenty per cent increase. Corresponding to this the union had asked for a decrease from ten to eight working hours, which would be equiva-

lent to a twenty per cent increase to men employed by the day. In response to this request the day men were given a nine-hour day with the same pay, which was equivalent to ten per cent increase.

The commission found that the state laws providing for payment by weight had been ineffective, and it declined to impose this method of payment or to fix a uniform number of pounds to the ton. In some mines payment was made by the yard and in others by the wagon or car. Payment by weight was to be effective only by mutual agreement. But in examining the statistics from certain mines the commission discovered that the presence of checkweighmen and check docking bosses had saved the miners fifty per cent in dockage.[1] Accordingly it awarded contract miners the right to elect and pay checkweighmen and check docking bosses to look after their interests.

The commission recommended that the distribution of cars be equitable, and that discrimination, lawlessness, boycotting, and blacklisting be done away with. It decided that payment to contract miners' helpers should be directed to the helper and not through the miner. Fixing the wages paid under the award as a minimum, the commission reëstablished the sliding scale. The basis price of coal was fixed at $4.50 at tidewater. When the average price increased five cents above this basis, the employees were to get an increase of one per cent in wages, and so on with every increase of five cents. The average prices were to be computed by an accountant who was to be named and have his compensation fixed by one of the circuit judges of the Third Judicial Circuit. His salary was to be apportioned among the operators in proportion to their tonnage.

The operators refused from the beginning of the investigation to recognize the United Mine Workers as an organization, and insisted that Mr. Mitchell appeared as a

[1] *Report of Anthracite Strike Commission, op. cit.*, p. 69.

representative of their employees and not in his official capacity. The operators claimed that they objected to the miners' organization chiefly because the majority of the members of the union were employed in the bituminous field which they considered a rival industry. They believed that it was to the interest of the bituminous operators and miners alike to encourage strife in the anthracite field. To this Mr. Mitchell responded: —

> That this objection is neither valid nor consistent is clearly demonstrated by the fact that many of the railroads officered by the same men who control the anthracite coal mines enter into agreements with railroad organizations, a majority of whose members are employed upon other and competing roads. It would be as logical to refuse recognition of the brotherhoods of locomotive engineers, firemen, conductors, or brakemen because a majority of the membership of these organizations is not employed directly by the anthracite-carrying railroads as it is to refuse to make an agreement with the United Mine Workers of America because a part of the membership is employed in the bituminous fields.[1]

The operators objected to boys over sixteen years of age being allowed one half of a vote, and the commission agreed that this was "unwise and impolitic." Further, the commission thought that strikes should be declared only by a two-thirds vote.

In spite of these objections the commission felt called upon to include in its award some method of peaceful adjustment of disputes. Accordingly it created an arbitration board of six members, to settle disputes that could not be adjusted by mine officials "and the miner or miners directly interested." Three of the board were to be appointed by the operators and three by the employees. An award made by a majority vote was to be final. In case the board could not agree, the disputed questions were

[1] *United Mine Workers' Journal*, November 20, 1902. Reprint of opening address to the commission.

to be referred to an arbiter who should be selected by one of the circuit judges of the Third Judicial Circuit of the United States. The membership of the board was at all times to be kept complete and there was to be no suspension of work pending a decision. The award of the commission continued in force until March 31, 1906.

8. ADJUSTMENTS SINCE 1902

A. Formation of the Conciliation and Arbitration Board

Hardly had the men returned to their work when there arose plenty of cases which needed the attention of the board. Discrimination, blacklisting, refusal to make deductions from wages to pay checkweighmen and docking bosses, the reckoning of increase of wages on the basis of gross or net earnings, were all fruitful sources of dispute. Shortly after the award was rendered, a dispute arose among the Reading employees over the interpretation of the statement regarding hours. A strike involving 30,000 men demanded immediate attention. President Mitchell ordered the men back to work to await the decision of the board. This trouble occurred the latter part of April, but the board was not ready for work until June 25 because of the refusal of the operators' representatives to meet the representatives of the miners till they had been duly appointed by a convention. The three district presidents of the United Mine Workers had been appointed as a matter of course, but recognizing them without the sanction of a convention looked too much like recognizing the union. The miners pertinently reminded the operators' representatives that they had not been appointed by the stockholders. In the mean time feeling ran high and the leaders had difficulty in keeping the men from another strike.[1]

[1] Mitchell, *op. cit.*, p. 396.

A. RULES OF THE BOARD

These circumstances did not give the board a very propitious inauguration, but the board proceeded at once to the formation of a set of rules to govern the consideration of cases. If a dispute arose, the person or persons "directly interested or a committee of the same" were to attempt to settle matters with the mine officials. In case of failure to agree or to get an interview, the causes of the dispute were to be put in writing and referred to the members of the conciliation board from that district. The board members were then to try to settle the trouble or obtain an interview for the workers. If there was a failure to reach an adjustment, the board was then to require a statement from the employer or summon him to appear in person. Complaints by the employers regarding employees were to follow the same course. Furthermore, the board was to consider no case unless work was continued while awaiting a decision.[1] This latter rule was supplemented by making the decision retroactive, i.e., the award went into effect from the time the complaint was made and not from the time of the board's decision.

B. The Cases before the Board

From 1903 to 1912 two hundred cases were brought before the board for action. One hundred and fifty arose in the first three years of the board's existence, twenty-three in the years 1906–09, and twenty-nine from 1909 to 1912. Two cases were still before the board in the early part of 1912 when Mr. Shelby M. Harrison made an extended investigation of the cases that had come before the board.[2] Out of a classification of 193 cases it was found that 181 had been brought by the workers against

[1] *United Mine Workers' Journal*, July 2, 1903. Reprint of the rules.

[2] Harrison, *The Survey*, April 20, 1912. These figures are taken from his report.

the employers. Of these "15 were sustained, 34 were not sustained, 32 were settled by mutual agreement, 32 were partly sustained, 53 were withdrawn, 9 were held to be beyond the board's jurisdiction, 4 resulted in a tie vote with no further action, and 2 [were] still pending. Of the 11 grievances brought by the employers 2 were sustained, 2 were settled, 6 withdrawn, and 1 was decided to be beyond the board's jurisdiction." In these figures the comparatively large number of cases that were withdrawn or settled by mutual agreement is worthy of note. Moreover, "it is reliably estimated that from two to three times as many cases have been settled by the district members of the board as have formally come before the whole body." The board could not agree on 25 cases and they were submitted to an umpire.

C. Attitude of Both Parties toward the Board

a. the operators' position

From the attitude taken by the operators in 1902 toward conciliation and arbitration we are justified in inferring that they did not look upon the project with any great favor. Strangely enough they are now strongly for the board, and they have resisted every effort made by the miners to supplement the activities of the board by arrangements which the miners feel will facilitate the work of the board and come nearer to rendering justice. The operators have found that the system they now have tends to prevent interruptions of work, brings the men back to work when a local strike occurs, and protects them from extravagant and impossible demands. The services of the union leaders have been very welcome in settling disputes in instances where the men were unorganized and in cases where a spontaneous strike has occurred in protest against abuses. A service of this kind was rendered in August, 1911, when 13,000 employees of the Pennsylvania Coal

Company (mostly Italians) went on a strike. It is said that the Industrial Workers of the World stirred the men to action, but the union leaders went among them, held meetings, and explained to them the necessity of formulating their demands before they could get them before the arbitration board. Out of the sixty grievances formulated all but two were settled by the district representatives of the board.[1] Among these 13,000 there were not 100 union men, yet it is said there is some restlessness among the operators because "the unions do not in all cases hold the men in line, pending the settlement of grievances, but this is doubtless regarded as a lesser evil than a super-powerful union."[2] The mine officials recognize that a settlement of disputes must be on a broader basis than in the days of purely individual bargaining. Some of them take pride in not having any grievances before the board, and others are learning that it hurts their standing with corporation officials if they have to be called before the board often to answer complaints of their men. In answer to the miners' demands in 1912 that "a more convenient and uniform system of adjusting local grievances within a reasonable time limit" be granted, the operators replied that "of all the arrangements effected by the Strike Commission, none has worked out better results than the conciliation board."[3] They maintained further that it furnished a means of "prompt and free adjustment"; that its decisions were rendered more promptly than those of civil courts and were retroactive; and that the cases coming before it had steadily diminished from 107 cases in 1907 to 5 in 1911.

B. THE MINERS' POSITION

In reply to this praise of the board the miners declared flatly that as a method of adjusting grievances it was very unsatisfactory.

[1] Harrison, *op. cit.*, p. 145. [2] *Ibid.*, p. 145.
[3] *Negotiations of Anthracite Operators and Anthracite Miners*, 1912, p. 5.

You lay stress upon the fact that the number of complaints submitted to the board has steadily diminished. . . . Instead of this proving its value, it strikingly illustrates its failure as a practical working method for the adjustment of disputes. In 1903 the miners hoped it would prove to be of real value, so they submitted thereto their grievances. They soon discovered that they were wrong. The red tape and technicalities incident to the handling and consideration of disputes make it impractical. This accounts for the decrease. The number of grievances among the men have increased rather than decreased, but they suffer under these wrongs rather than submit them to the board. It is not a working arrangement; it exists in name only.

There are several circumstances which should be considered in connection with this strong position which the miners have taken. Upon the miners' organization rests the responsibility for keeping strikes in check and yet their organization receives no recognition by the operators. The employers treat with men who are known simply as representatives of the employees of the anthracite region. Moreover, the whole plan of conciliation and arbitration is predicated upon effective organization which will enable the enforcement of agreements. The union bears one half of the expense of the board, although only 29,225 out of 170,000 employees were paid-up members of the organization in 1912. The great mass of the workers appreciate the benefits of organization when a new agreement is to be negotiated and they lay off to a man. But the spirit of tax-dodging exists here as elsewhere, and it is only by the introduction of proper administrative machinery that taxes can be collected and agreements and contracts enforced after they are made. The non-union man gets the benefit of general betterment of conditions without contributing anything to maintain them.

Again, the individual worker is at a disadvantage in dealing with the mine officials. The board up to 1912 received complaints only from "interested" persons, and

without a pit committee backed by the entire organization the worker is on the basis of individual bargaining when it comes to performing the various classes of work which the changing conditions in the mines are constantly requiring. In such cases he must accept whatever the official imposes upon him or quit, and his financial condition is generally too precarious to warrant his surrendering his job lightly. These conditions were further supplemented by the absolute right of discharge which was rendered in a decision of Arbiter Wright, and this right was easily used to root out the men who dared to express their grievances. The organizers or board members could not go to a mine to protect a union man from retaliation, and the whole situation militated against organized labor and made membership a very questionable proposition to the average worker.

Also the miners were not satisfied with the powers delegated to the board for dealing with vital questions, nor the scope over which it might extend those powers. In the first place, the award of the commission has been set up as a sort of constitution which will bear interpretation but not radical revision. For example, in the matter of wages they are still founded on custom and the reported wage schedules of the operators to the commission. The commission did not attempt to formulate a wage schedule classified on the basis of varying conditions and the nature of the work done, but contented itself merely by adding on ten per cent to the existing schedules. Cases have arisen where the employers claimed that they were not parties in the disputes submitted to the commission and did not promise to abide by the award. The board decided that disputes with such parties had no standing before the board.

Again, Mr. Wright as umpire said that "the anthracite commission did not undertake to deal with the character of the work performed, this being left to adjustment in

each colliery in accordance with the prevailing conditions." Where satisfactory adjustments have not been made in the collieries, the complainants have carried their grievances to the board only to find that the board claimed to have no jurisdiction. These are some of the conditions which prompted the miners to call the board an ineffective instrument in dealing with the real problems of conciliation and in keeping pace with changing conditions.

9. THE NEGOTIATIONS OF 1912

A. Preliminary Negotiations in 1906 and 1909

In 1906 the miners signed an agreement to continue under the award of 1903, with the feeling that, if they had accomplished nothing more, they had at least got the operators to do a little negotiating. The miners hoped that by 1909 the operators would be ready to meet them frankly in joint conference and discuss the real conditions of the industry. But again, in 1909, they got no further than signing an agreement to work under the award of 1903 till 1912, and adding a few clauses providing that payment for new work should not be less than the rates paid under the award; that the arrangements and decisions of the conciliation board permitting of dues on company property should continue; and that an employee discharged for being a unionist should have the right of appeal to the board for final adjustment.[1]

B. The Miners' Demands

On November 3, 1911, the Tri-District Convention of the anthracite miners met and formulated the following demands. The most important was the demand for recognition of the United Mine Workers as a party in negotiating a wage contract for one year, with the right to provide a suitable method for collecting revenue for the

[1] *Report of Secretary of Internal Affairs of Pennsylvania*, 1909, p. 277.

organization. An advance of twenty per cent in wages, an eight-hour working day, and a better system of adjusting local grievances were next in importance. It was further demanded "that the rights of checkweighmen and check-docking bosses shall be recognized; that they shall not be interfered with in the proper performance of their work; that all coal shall be mined and paid for by the ton of 2240 pounds wherever practicable"; and that the system of allowing contract miners to have more than one working place and employing more than two laborers should be abolished.

C. The Joint Conference

a. the operators' reply

These demands were presented to the operators February 27, at a joint conference which was adjourned till March 13, 1912, to give the operators a chance to consider them. On the latter date the conference met and the operators presented a written statement in reply to the demands. Harking back to the award of the commission, they reminded the miners that "the award they rendered stands recognized as the most just and sound solution of labor difficulties ever secured in the country. . . . It should be conclusive as to all facts and issues which it covered and these have not since been changed." All the old arguments against recognition of the union were advanced, and the operators concluded that the demand for "check-off" for collecting dues would lead to the "closed shop." They also called to mind that it would be impossible to grant this because there was a state statute requiring that the full amount of wages be paid in cash.[1] In response to the request to establish equal opportunity among contract miners they refused "to limit the ability and ambition of industrious men by arbitrarily agreeing to restrict their

[1] This law had been aimed at the company store.

opportunities to earn increased remuneration." Furthermore, they disclaimed any interference with checkweighmen and check-docking bosses. For them to grant the eight-hour day would be seriously to curtail production, and to concede an advance of twenty per cent was not to be thought of because, by the ten per cent advances of 1900 and 1902 and the 4.6 per cent increase as the result of the sliding scale, the miners had received a total advance of 24.6 per cent. Since the sliding scale went into effect the miners had received a total bonus of $30,000,000. If the twenty per cent increase were granted, it would mean an increase in wages of $28,000,000, annually, which would have to be borne by the domestic sizes of coal and would increase the price of coal sixty-seven cents per ton. The estimate was "based upon the cost sheets of a number of collieries in all three regions." Furthermore, coal was being produced at an increasing cost, and since the cost of fuel was "such an important element" to individual and industrial consumers it would not be fair to advance the cost of mining and thus advance the price of coal. The operators hoped that the prosperity which had so long obtained in the industry would not "be arbitrarily and unnecessarily disturbed." If it were, the responsibility would be with the miners.[1]

B. THE MINERS' REBUTTAL

After the statement of the operators was read the miners were informed that it was final, and the conference adjourned for two days, when the miners made the following reply. They regretted the "positive position" the operators had taken and had hoped that they would recognize the change in conditions that had taken place since the commission made its award. Further, the commission had not intended that the award should "continue in effect for all time." Also, the increased cost of

[1] *Negotiations of Anthracite Operators and Anthracite Miners*, 1912, p. 9.

living had reduced the purchasing power of wages, and in the matter of working hours there was no reason why the anthracite miner should have to work longer hours than the bituminous miner. Unless the union were recognized, they were thoroughly convinced that they could not "protect their interests" under the terms of any contract. They thought their demands were worthy of the most serious consideration, and felt that the answer to them should have "at least permitted the fullest and freest discussion." They had renewed the award twice in nine years and had complied with its provisions, and felt that "as public-spirited citizens" they had done their full duty. Since the operators had enjoyed "unprecedented prosperity" during this time, a "discriminating public" would be able to place the responsibility for the failure to reach an agreement in the light of the present conditions.[1]

This reply seems rather tame, but the miners felt that it was useless "to submit their testimony to a jury that had already rendered a verdict." With the adjournment of the conference both parties issued statements to the public in order to win support if trouble arose. An automatic suspension of work took place April 1 with the expiration of the contract, and approximately 170,000 employees ceased work. The miners requested another meeting, and the conference met in Philadelphia, April 10. At this meeting the miners were most aggressive in their statements. In regard to the finality of the commission's award, the miners frankly stated that there could be no genuine and lasting peace until the operators recognized the miners' organization and entered into a direct joint agreement. Following this came their flat statement regarding the conciliation board quoted on page 259. They then analyzed the $30,000,000 bonus paid

[1] *Negotiations of Anthracite Operators and Anthracite Miners*, 1912, p. 11.

in the nine years, and showed that it averaged but $17.60 per year for each employee. At the same time the miners were getting this munificent sum, the operators were getting prices that ranged as high as forty cents per ton above the basis price of $4.50. They felt justified in concluding that the operators were making a good profit at $4.50, at which point the miners got nothing. Added to this was the increased profit that had come whenever any of the 600,000,000 tons (mined during the nine years) had sold above the basis price. The operators offered to submit the issues to the strike commission, but the miners wanted "no more of the Anthracite Strike Commission or its award." The demands were then submitted to a joint subcommittee of four members on each side.

C. THE AGREEMENT

This subcommittee continued its sessions until April 24 and brought forth the following agreement: The agreement was to extend four years, ending March 31, 1916. This will bring the contracts to an end simultaneously in the bituminous and anthracite fields. Contract rates and wage scales for all employees were increased ten per cent, and the sliding scale was abolished. It was agreed that there should be an equitable division of mine cars, and contract miners should elect checkweighmen and checkdocking bosses in formal meeting. The mine foreman should be informed of the results of that election. At each mine should be a grievance committee of not more than three persons. This committee, it was agreed, should settle grievances with the mine officials and it should be allowed the services of the district member of the board of conciliation "elected by the Mine Workers' Association." In case of failure to agree, the dispute should go before the miners' and operators' district representatives of the conciliation board. If they failed to agree, the case should go before the board. As an aid in carrying into

effect the ten per cent increase and "facilitating the adjustment of grievances, company officials at each mine shall meet with the grievance committee of employees and prepare a statement setting forth the rates of compensation paid for each item of work April 1, 1902, together with the rates paid under the provisions of the agreement, and certify the same to the Board of Conciliation within sixty days after the date of this agreement."[1]

The miners are well pleased with the new features for settling disputes, but they regard the system as incomplete until the organization is recognized and they are permitted to use the "check-off." On the other hand, the operators look upon the check-off as preliminary to the "closed shop," a huge fund in the union treasury, and future encroachments. They are afraid of the ignorant, heterogeneous masses and the great danger to the trade if "'this heterogeneous mass were to secure a strength that would come with a larger membership and treasury.' On this point the answer of the mine workers' leaders is clearly put: that conservatism comes with strength; that experience in organization is the surest safeguard against sporadic action on the part of massed men; and that the insurrection of the 12,000 employees of the Pennsylvania Company . . . was provoked by the speakers of an outside organization which stands for neither collective bargaining nor time agreements — the Industrial Workers of the World."[2] However, the new features will encourage the growth of the union because the men will be made to feel that the organization is able to do effective work in other ways than merely the making of an agreement. The miners also felt that they had made a good bargain in abolishing the sliding scale and obtaining a flat increase of 10 per cent. Under the sliding scale the highest increase had

[1] *Negotiations of the Anthracite Operators and Anthracite Miners*, 1912, p. 29.

[2] Harrison, *op. cit.*, p. 150.

been 8 per cent and the average was 4.17 per cent. Furthermore, they had not been satisfied that they were getting all that the sliding scale was supposed to guarantee. The statistician who figured the average prices had told one of the leaders that to obtain the average price, he took the total receipts for coal at tidewater reported by the operators and divided it by the total number of tons. The union leaders pertinently asked, "What assurance have we that the operators reported all the dollars they received?" [1]

Comparison in percentages of total wages to total value of coal at the mine produced in the following years in Pennsylvania and Ohio.[2]

Year.	Pennsylvania.		Ohio.
	Anthracite.	Bituminous.	
1902	57.2	59.9	66.1
1903	51.4	61.1	67.9
1904	65.7	71.9	75.7
1905	61.6	73.8	75.5
1906	61.8	53.2	72.4
1909	59.3	68.2	76.4
1911	59.9	71.6	75.9

The miners' contention that they were not profiting by the general prosperity of the industry seems to be supported by the table above. When we compare the percentages of total wages to the total value of coal at the mines, the miners in the anthracite fields certainly had not benefited to the same extent as had the miners in the bituminous fields, where collective bargaining was effective. This comparison is as fair for one field as for another and eliminates the element of monopoly control. The anthra-

[1] *Negotiations of Anthracite Operators and Anthracite Miners*, 1912, p. 60.

[2] Ohio was the only State having collective bargaining in which the figures of total wages were available for comparison with Pennsylvania.

cite field compares unfavorably even with the bituminous fields of Pennsylvania, a large portion of which are still subjected to individual bargaining. Another factor worthy of note is the immediate drop in the percentages in the bituminous fields with the break-up of the joint conference in 1906. In Ohio and Illinois, where the union is stronger than in the bituminous fields of Pennsylvania, the percentages were held up pretty well. In Illinois, in 1899, the percentage of the total wages to the total value of the coal at mine was 79.4. In the other years the total wages for Illinois were not obtainable, but the available figures show that the wages of the miners, exclusive of the wages for day labor, ranged from 46.7 to 51.1 per cent. The total wages would bring the percentage up as high as or higher than the Ohio percentages.

There seems good ground for the hope that this first step in real conciliation in the anthracite field will lead to a better understanding between capital and labor and to a real democratization of this important branch of the coal industry. Time should bring about a greater elaboration of the system, and under it both parties must develop a clearer perception of what is demanded by fairness to each other and by consideration for the public.

Before we turn our attention to a consideration of the relation of this system of conciliation and arbitration to the whole coal industry, the part it has in a constructive public policy, and the developments that are likely to take place in regard to legal enactment and political action by the unions, we may profitably consider the developments that have taken place in the British coal industry.

CHAPTER VIII

CONCILIATION AND ARBITRATION IN THE BRITISH COAL INDUSTRY

INTRODUCTION

If we desire to profit by the experience of others, we cannot do better than to turn to Great Britain from whence sprang most of the ideas and methods that have been utilized in effective industrial adjustments in the mining industry of this country. We have adapted them to suit our needs and in some respects improved upon them, perhaps, but we certainly owe the initial impulse toward practical adjustment to the British workers who had been trained in an industrial environment where the folly of strikes and the futility of strong-arm methods had been learned by hard experience. Industrial development, homogeneity of population, and the growth of unity among the workers have brought developments in the British coal trade that we have not as yet approached. A consideration of these developments is full of suggestions for the students of American problems. They are of interest not merely as showing the evolution in methods of voluntary conciliation and arbitration, but we see there the important part that government has had to take in smoothing out the process of obtaining industrial democracy. With the growing ability of the unions to bring economic and political pressure, the necessity has been shown for legal enactment and governmental interference and participation in the industrial struggle. The evolution of labor representation in Parliament to supplement the efforts made for peaceful adjustment in conciliation boards

points to a development which we shall see has made a good beginning in the United States. The struggle for the minimum wage involving both economic and political pressure is suggestive of the situation we may have to meet in this country if both anthracite and bituminous miners make a united stand. The nationalization of mines, which will be the next big move in the British mining industry, has already found influential advocates here.

1. THE RISE OF THE MINERS' UNIONS

A. Early Conditions

When we remember that it was not until 1799[1] that the Scottish miners were freed from a condition of semi-serfdom, we gain some perspective for considering the full import of the remarkable developments of industrial democracy that have since taken place in the British coal industry. Moreover, a "yearly bond" system kept the miners of England practically in a state of peonage much beyond that date. In spite of forceful measures taken to maintain these conditions the industry was subject to violent strikes, and in the great strike of 1810 in the north of England we first hear of "an oath-bound confederacy recruited by the practice of 'brothering,' so named because the members of the union bound themselves by a most solemn oath to obey the orders of the brotherhood, under penalty of being stabbed through the heart or of having their bowels ripped up."[2]

The turbulence and attempts at unity seem to have made small progress in competition with the existing arbitrariness of individual ownership, the respect for aristocracy, and a government controlled by, and solely for the benefit of, the ruling classes. In 1844, Lord Londonderry, "in

[1] The act which provided for gradual emancipation was passed in 1775. See Jeans, *Conciliation and Arbitration*, p. 56.

[2] Webb, *History of Trade Unionism*, p. 79.

his dual capacity as mine owner and Lord Lieutenant of Durham County," was not only able to answer a demand for better wages by evictions and the replacement of the strikers by Irishmen, but "he peremptorily orders the resident traders in 'his town of Seaham,' on pain of forfeiting his custom and protection, to refuse to supply provisions to the workmen engaged in what he deems 'an unjust and senseless warfare *against their proprietors and masters.*'"[1]

B. Formation of the Miners' Association of Great Britain and Ireland, 1841

The county unions which had grown up in Northumberland, Durham, Lancashire, and Yorkshire had entered into a federation in 1841 and employed a solicitor to represent their organization in the numerous prosecutions to which they were subjected under the law of master and servant. W. P. Roberts, the "miners' attorney-general" was so active on behalf of the miners that he was "soon retained in all Trade Union cases."[2]

[1] Webb, *History of Trade Unionism*, p. 150.

[2] *Ibid.*, p. 165.

The recital of his experience as a pioneer advocate of the workingmen before the courts has a modern note in it. "After explaining the law, as he understood it (when writing to the Flint Glass Makers' Friendly Society), he proceeds as follows: 'But it is exceedingly difficult to induce those of the class opposed to you to take this view of things. I do not say this sarcastically, but as a fact learned by long and observant experience. There are, indeed, men on the bench who are honest enough, and desirous of doing their duty, but all their tendencies and circumstances are against you. They listen to your opponents, not only often, but cheerfully — so they know more fully the case against you than in your favour. To you they listen too — but in a sort of temper of Prisoner at the Bar, you are entitled to make any statement you think fit, and the Court is bound to hear you; but mind, whatever you say, etc., etc. In the one case you observe the hearty smile of good will; in the other the derisive sneer, though sometimes a ghastly sort of kindliness in it. Then there is the knowledge of your overwhelming power when acting unitedly, and this begets naturally a corresponding desire to resist you at all hazards. And there are hundreds of other considerations all acting the same way — meetings, political

In their national conference held at Glasgow in 1844 the miners voted to go on a strike. The men demanded a six months' engagement instead of a yearly "bond"; five days' work a week with at least three shillings per day; a record of their earnings and the deductions made therefrom; an eight-hour day; a benefit of ten shillings per week in case of accident; provision for arbitration; and "a week's prior notice with the specification of the charges to be brought against them in case of being summoned before the magistrate." [1]

The Federation is said to have had a membership of 100,000, and this conference expressed the sentiments of 70,000. It is little wonder that the strike came to a disastrous end after several months of fighting when we remember that they had to contend with conditions of which Lord Londonderry's treatment was representative. The loss of this strike was a large factor in breaking up the federation, and by 1848 it had ceased to exist.

C. The Miners' National Union, 1863

In the next seven years even local unions had almost died out, but in 1856 a man came to the front as an advocate of the miners, "Alexander Macdonald, to whose lifelong devotion the miners owe their present position in the Trade Union world." [2] While working as a miner he prepared himself for Glasgow University and partially supported himself during his residence at the university by summer work in the mines. He started a cam-

councils, intermarriages, hopes from wills, etc. I do not say that all occupants of the bench are thus influenced, nor to the same extent; but it certainly is at the best an uphill game to contend in favour of a workingman in a question which admits of any doubt against him. It never happened to me to meet a magistrate who considered that an agreement among masters not to employ any particular "troublesome fellow" was an unlawful act; reverse the case, however, and it immediately becomes a formidable conspiracy which must be put down by the strong arm of the law.'"

[1] Jeans, *Conciliation and Arbitration*, p. 59.

[2] Webb, *op. cit.*, p. 285.

paign for legal enactments to provide for mine inspection, proper weighing, restriction of the age of child workers in the mines to twelve years, an eight-hour day, weekly payment of wages, abolition of payment in truck, and the correction of various other abuses.

By an effective system of correspondence with local pit clubs the growth of district organizations was encouraged, and by 1863 they were welded into a Miners' National Union.

At a conference held the same year Macdonald was able to organize the meeting into sections on law, grievances, and social organization, and to secure the adoption of his programme of measures which were essential to the betterment of the miners' working and living conditions. "In contradistinction to the view which would make wages depend upon prices, the principle of controlling industry in such a way as to prevent encroachments on the workman's standard of maintenance is clearly foreshadowed. 'Overtoil,' says the report [of the conference], 'produces oversupply; low prices and low wages follow; bad habits and bad health follow, of course; and then diminished production and profits are inevitable. Reduction of toil and consequent improved bodily health increases production in the sense of profit; and limits it so as to avoid overstocking; better wages induce better habits and economy of working follows. . . . The evil of overtoil and oversupply upon wages, and upon the labourer, is therefore a fair subject of complaint; we submit, as far as these are human by conventional arrangements, [they] are a fair and proper subject of regulation. Regulation must of course be twofold. Part can be legislated for by compulsory laws; but the principle [*sic*] must be the subject of voluntary agreements.'"[1]

[1] Webb, *op. cit.*, p. 288. Quotation from report.

A. REGULATORY MEASURES

The advocacy of an eight-hour day was limited (for the time) to boys, but this demand immediately brought a line of cleavage between Durham and Northumberland and the other districts. Durham and Northumberland wished to keep the boys working ten hours and the men in two shifts of six hours each. The first shift of men went to work two hours before the boys, and thus mined enough coal to keep the boys busy loading. The second shift by working six hours brought the working day of the boys up to ten hours. This diversity of opinion and opposition within the ranks of the miners was the chief cause that deferred the passage of an eight-hour act till 1908.

By a series of struggles beginning in 1859 the miners succeeded in getting permission to have checkweighmen at the scales in a few collieries. But the attempt to insert such a provision in the Mines Regulation Act of 1860 was severely contested in Parliament, and, although finally incorporated, it was evaded by refusing the checkweighman access to the mouth of the pit and hampering him in his work by fencing up the weights or disputing his calculations. The Act of 1860 had to be strengthened by the Acts of 1872 and 1889 before it was clearly established that a checkweighman had a legal right to keep a record of each man's work, and that though elected by a majority of the miners all the men had to contribute to his salary.[1]

The leaders of the miners were active with other trade union leaders from 1864 to 1867 in obtaining the Master and Servant Act of the latter year. The old master and servant acts had permitted an official armed with a warrant from a justice of the peace to drag a workman out of his bed in the middle of the night and subject him to three months' imprisonment if it could be shown that he

[1] Webb, *op. cit.*, p. 291. In the American anthracite field this expense has to be met by the contract miners.

had broken his contract of service or absented himself from his work without leave from his employer. Nor could the worker testify in his own favor, or pay a fine in lieu of imprisonment. The justice of the peace was often an employer of labor and in full sympathy with harsh procedure. No matter how arbitrary his decision, the workman was allowed no appeal. The extent of the abuses under this law was finally realized when it was discovered that "10,339 cases of breach of contract of service came before the courts in a single year." [1] The Act of 1867 remedied the worst features of the old laws, and the Webbs regard it as "the first positive success of the Trade Unions in the legislative field," and believe that it "did much to increase their confidence in parliamentary agitation." But it was not until the passage of the Employers' and Workmen's Act of 1875 that imprisonment for breach of contract was finally abolished and the unions given legal recognition.

D. Formation of the Miners' Federation of Great Britain, 1889

Another fact, besides the disagreement about legal regulation of hours of labor, that caused further dissension in the ranks of the miners during the later sixties and the seventies, was a divergence of opinion over the use of the sliding scale. Durham and Northumberland favored the sliding scale and the attending dependence of wages on prices. But in the Midland counties there grew up a feeling that the miner, who had no control over prices and competition, ought not to bear the brunt of depression brought on by the mismanagement of the owners. The Midland unions either abolished the sliding scale or insisted that it be accompanied by a minimum below which wages should not fall. Furthermore, they were ready to supplement this action by the regulation of production.

[1] Webb, *op. cit.*, p. 235.

During the early and middle eighties the contests in miners' conferences and in Parliament grew more bitter, until in 1889 the climax was reached with the withdrawal of the Midland associations and their organization into the Miners' Federation of Great Britain. While the National Union gradually fell off in membership until it included merely Durham and Northumberland, the Federation grew until it took in all the federations and associations in the other counties of England, North and South Wales, and Scotland. In spite of the fact that Durham and Northumberland kept persistently by themselves, they responded to invitations to special conferences which affected the industry as a whole. Finally, in 1908–09, we find them both in the Federation and presenting a united front with the other fields in obtaining and enforcing the Eight-Hour Act of 1908. In the annual conference of the Federation in 1911, a membership of 608,200 was represented and stood united in their determination to secure a minimum wage.[1]

The Federation leaves local and district matters under the control of local and district organizations. The districts, which are also a federation of smaller units, are held responsible for the financial support of the Federation, and these unite in lending moral support and material aid in all matters which are of national importance to the industry. But the federation of federated districts would not present a strong industrial unity equal to the solidarity of the United Mine Workers of America, were it not for the homogeneity within the British industry and the hard lessons that the various district federations learned of the futility of independent sectional fighting. Although these two factors of homogeneity and experience are strong in their welding force, yet the federation of federations would easily permit of independent action and withdrawal

[1] *Report of Annual Conference of the Miners' Federation of Great Britain*, 1911, p. 182.

with the rise of factional strife. From the standpoint of enabling the organization to keep a heterogeneous membership loyal and to deal with complex conditions such as we have in this country, the United Mine Workers would seem to be superior.

2. METHODS OF INDUSTRIAL ADJUSTMENT

A. Arbitration

The period from the early forties to the early seventies was one of evolution in the acceptance of trade unions, the formation of employers' associations to meet their growing power, and the development of irregular negotiations carried on largely by means of strikes. These negotiations finally led to formal arbitration proceedings. The current ideas that lay in the background of arbitration proceedings, and probably constituted a large element among the causes which led later to a more satisfactory method of adjustment, are illustrated by a Northumberland arbitration case of 1875.

The case was argued by means of written statements which were discussed by the representatives of both parties in the presence of the arbitrator. On the submission of the case to the arbitrator each party was allowed to file written statements to strengthen its side, but was not permitted to introduce new evidence. Accountants submitted information reduced to percentages, drawn from the books of the operators. The labor costs and selling prices of 1871 were accepted as a basis of comparison to decide whether the operators' demand for a reduction of twenty per cent was justifiable.

The miners pointed out that the operators wanted them to bear the full effects of adverse conditions in assuming that profits were fair in 1871 and that the price of coal had to rise "in exactly the same ratio with wages in order that the profits of coal owners may remain the same";

and, further, "it is also assumed that the great increased percentage, mentioned in the owners' case, has been paid in the shape of increased wages."

The umpire in his decision set forth factors which had increased the cost of production, such as the increase of fifty per cent in wages between 1871 and 1875, the shortening of hours without proportionate increase in the per hour output, and certain requirements of the Mines Regulation Act of 1872 which interfered with economical production. But the umpire thought that the chief reason why wages should be reduced lay in the fact that the number of men in the industry had increased, and he gives us an interesting sidelight on the influence of the wages fund doctrine. Where there had been formerly ten men there were in 1875 fourteen men, and therefore from "the total wages fund" each man could only expect one fourteenth instead of one tenth. And he concludes "that the restoration of economy in production cannot be brought about by abating the rate of wages only, or indeed, mainly, but must be accomplished by reducing the number of men." The men were awarded a reduction which varied from ten to twelve and a half per cent.[1]

B. The Era of Sliding Scales

It was not long before both parties found themselves dissatisfied with arbitration and looked upon it only as a measure of last resort. With the acceptance by both parties of the principle that wages should be determined by prices, the sliding scale was utilized to accomplish this end. The sliding scale was first introduced in the South Staffordshire field in 1874, and by 1880 had spread to most of the other fields. The question of a proper basis and the ratio of increase and decrease in wages according to the rise and fall in prices occasioned many revisions and nu-

[1] *Miners' National Record*, vol. 1, no. 7, pp. 107–09. Reprint of the Northumberland proceedings.

merous resorts to arbitration. The demand for changes came from both parties. Another factor which caused much dissatisfaction was the failure in most instances to incorporate a minimum in the scales. Again, the slowness in response of wages to changes in prices was an aggravation to both parties, according to whether or not it was a period of depression or prosperity.

With the rise of the Miners' Federation in 1888–89, the principle of a living or minimum wage found advocates, and the demand was advanced that wages should be considered a first charge on the industry.[1] Nor did the advocates of these policies see any reason why prices should not be adjusted to wages instead of wages following prices. The Federation rapidly gained a following for its new doctrine, and by 1893 the sliding scale remained in operation only in South Wales, South Staffordshire, and the Forest of Dean.[2]

C. The Big Strikes of the Nineties

Following the abandonment of the sliding scale, there took place a series of struggles which were to inaugurate a new era in the British coal industry. The strike in the Midland counties in 1890, which involved 151 collieries and 107,484 mine workers, was the largest ever recorded in the United Kingdom up to that time.[3] It brought the men an advance of five per cent instead of the ten per cent they had asked for. In 1892 the Federation of Durham County was involved in a strike to resist a reduction of ten per cent. It affected 150 mining establishments and 75,000 mine workers, and was finally settled, through the mediation of the Bishop of Durham, by the acceptance of the reduction and an agreement to submit future disputes to a conciliation committee.

[1] Ashley, *The Adjustment of Wages*, p. 40. [2] Webb, *op. cit.*, p. 486.
[3] Special Report of Commission of Labor, *Coal Mine Labor in Europe*, 1905, p. 476.

A. THE STRIKE OF 1893

The next year was the most momentous which had been known in the British coal industry. There were 139 strikes and lockouts involving 503,061 mine workers.[1] Of these the strike of the Miners' Federation, involving 1500 establishments and 300,000 men, occupied the center of the stage. This strike was called to resist a demand for a twenty-five per cent reduction in wages and lasted from July 28 to November 17.

Between 1888 and 1893 the miners had succeeded in advancing their wages forty per cent, and the owners claimed that they must now reduce wages to be able to compete with the other districts in which the men had accepted reductions. At a joint conference the union leaders stuck to their principle of a living wage and denied that their present wage allowed any margin for reduction. Their request for a month's time to put the owners' demands before the men and return an answer was met by a refusal and by the posting of notices which terminated contracts within a month. The men had refused to accept arbitration, but they concluded from this action that the owners were bent upon forcing a reduction in violation of the terms of the last agreement, which had provided that "before any public action is taken with respect to notices the men's case shall be laid before a committee of the colliery owners . . . and that the results be made known to the workmen."

During August negotiations continued, but with no results other than a referendum vote (September 1) on the question of the acceptance of the twenty-five per cent reduction, the owners' offer to arbitrate, and the resumption of work by those who could do so at the old rate of wages. There was practically a unanimous vote against the

[1] Special Report of Commission of Labor, *Coal Mine Labor in Europe*, 1905, p. 482.

first two propositions and a majority of 30,750 against the last. The great demand for coal by October 2 prompted the mayors of six cities to arrange a joint conference which was attended by both parties. The mayors' proposition that the men be allowed to return to work at the old wages, but submit to a reduction of ten per cent six weeks later, was acceptable to neither party.

By October 25 the owners expressed their willingness to meet the miners "to discuss the whole question, without prejudice to the position of either party." Accordingly at a meeting on November 3 and 4, the owners advanced the offer to form a board of conciliation to settle the whole question of reductions and to start the mines at once. While their offer was being submitted to the miners, Mr. Gladstone invited both parties to a joint meeting under the chairmanship of Lord Rosebery, who was to act as an adviser and not as an umpire or arbiter. This invitation was promptly accepted, and on November 17 a conference of a few hours resulted in the following agreement: (1) A board of conciliation to consist of fourteen representatives of each side should, before the first meeting, elect a chairman, who should have a casting vote. If they could not agree on a chairman, he should be appointed by the Speaker of the House of Commons. The board should meet on December 13, 1893, and should have the power to determine the rate of wages, beginning with February 1, 1894. (2) In the mean time the men should resume work at once and continue at the old rate of wages until February 1, 1894. All collieries should be opened and "no impediment be placed in the way of a return of the men to work."

The Speaker had to appoint a chairman. The preliminary meetings brought forth nothing other than the refusal of the chairman to allow the incorporation of a provision for a minimum wage in the constitution of the board, and no action was taken on the proposal to reduce wages. In

July, 1894, the board came to an agreement which reduced wages ten per cent until January 1, 1896, established a minimum of thirty per cent, and a maximum of forty-five per cent, above the rates of 1888, and gave the board the privilege of establishing wages within these limits from January 1, 1896, to August 1, 1896.[1]

In 1894 the Scotch miners were engaged in a struggle which involved 500 establishments and 70,000 employees, while a strike in South Wales in 1898 involved 100,000 men. All of these struggles arose through disputes over wages. Three were settled by conciliation boards, and in two the miners failed to obtain any concessions.

D. The Royal Commission on Labour

These industrial struggles convinced the Government that it needed to inaugurate preventive and conciliatory measures. It was during the unrest of the early nineties that the Royal Commission on Labour was making its investigations, and its final report in 1894 embodied recommendations for the functioning of the local and central governments in connection with labor disputes. The majority report suggested that municipal and county councils be empowered to establish industrial courts to decide questions arising out of existing contracts, and that the central government should have power to obtain and circulate information regarding conciliation boards. The central government should also have the power to advise and to promote their establishment by appointing chairmen to boards or arbiters upon application of the parties. The minority were willing to go a step further on the publicity side and empower the central government to obtain the fullest possible information concerning each dispute, the net wages, the cost of living, prices, cost of production, salaries, interest, profits, etc.

[1] Special Report of Commissioner of Labor, *op. cit.*, p. 489.

E. The Conciliation Act of 1896

In 1893 the Board of Trade began an inquiry which sought to determine the legislation necessary to meet modern social and industrial conditions. As a result of this investigation the Conciliation Act of 1896 was enacted. The Master and Workmen Arbitration Act of 1824, which authorized justices of the peace to appoint arbiters with extensive powers, the Councils of Conciliation Act of 1867, which confirmed the Act of 1824 and added provisions for conciliation councils, and the Arbitration Act of 1872, which enlarged upon the provisions of the two former acts, were repealed as so much useless timber. Their only recognized virtue was that they were harmless when not enforced.

The act provided further for registration of conciliation boards and gave the Board of Trade power (*a*) to inquire into the causes of the trouble, (*b*) to take steps to bring the parties together under a chairman mutually agreed upon or nominated by the board, (*c*) upon application of either party to appoint a conciliator or board of conciliation, (*d*) and upon application of both parties to appoint an arbitrator. Furthermore, if it appeared to the Board of Trade that in any district or trade adequate provisions for conciliation did not exist, it was empowered to inquire into the conditions of the trade or district, confer with the employees, employers, and local authorities, and seek to establish a conciliation board.

a. Results under the act

That this enactment has proved an effective measure is shown by the work of the Board of Trade between 1896 and 1910. In that time the board intervened directly in 432 cases, 201 of which involved stoppage of work and 231 of which did not. In the earlier years there were few applications, and they came mainly from the workingmen;

but in the later years, beginning with 1907, a year of depression, a marked increase in the number of cases took place. Along with the increase in the number of cases has gone a distinct expression of confidence in the board indicated by the great increase in joint applications for the services of the board, there being 278 such instances out of the total of 432 cases.[1] A further expression of appreciation of the board's services is the increasing number of cases wherein the parties do not wait for an open breach, but apply to the board to prevent strikes. It has also been a strong factor in encouraging voluntary conciliation boards and lending dignity and importance to the whole conciliatory movement.

B. THE COURT OF ARBITRATION

Further to supplement its activities the board has added two devices. In 1908 it established a permanent court of arbitration consisting of three panels: "persons of eminence and impartiality," employers, and labor leaders. A court may consist of three or five members, according to the importance of the case, and an award is made upon a majority vote. In 1909 and 1910 the court handled sixteen cases, eight of which were settled before a rupture had occurred and eight not until after a strike.[2]

C. THE INDUSTRIAL COUNCIL

The labor troubles of 1911 led the board to add another device to enable it to meet the increasing demands for its services. An "Industrial Council," consisting of thirteen representative employers and thirteen labor leaders, was created. In advocating this addition the president of the Board of Trade pointed out that one disadvantage of the existing system had been to bring into prominence the parliamentary head of the Board of Trade in matters which

[1] *Bulletin of Bureau of Labor*, no. 98, January, 1912, p. 133.
[2] *Ibid.*, p. 124.

should be purely industrial, and expressed the opinion that if the action of the department was still further removed from politics the parties would more willingly seek the assistance of the board. Furthermore, with the increasing concentration in industry and the federation of labor, a national conciliation council, which might have been considered premature a few years ago, "is really now essential so that these matters can be considered as a whole."[1]

Regular meetings are held in February, June, and November and special meetings may be called at any time by the chairman. The members are supposed to act in a judicial capacity, not as advocates, and may consider the following classes of cases: (1) Cases in connection with which the parties are merely asking for an impartial opinion concerning the facts about which there is no dispute; (2) cases in which the parties desire the facts to be impartially ascertained and submitted with recommendations which shall not be binding or made public; (3) cases in which the parties agree beforehand that the recommendations shall be made public; (4) cases in which the parties decide to accept a decision of the council as final; (5) special cases submitted by the Board of Trade; (6) matters apart from disputes upon which the board may want a representative opinion.[2] Thus the board will be able to allow the council to take over a large part of its activities.

F. Modern Conciliation Boards in the Coal Industry

Of the 432 cases dealt with by the Board of Trade, only 54 were among the mining and quarrying industries. This is due to the fact that in the coal mining industry there are nineteen permanent voluntary conciliation boards which have complete automatic machinery for settling disputes.

[1] *Bulletin of Bureau of Labor*, no. 98, January, 1912, p. 126.
[2] *Ibid.*, p. 127.

There are two classes of conciliation boards in the coal industry. The first deals with the adjustment of wages and working conditions which are applicable to a district or a federation of districts. The second is termed a joint committee and concerns itself with all local matters which do not conflict with the county or district agreement and which do not demand the attention of the conciliation board.

The Board of Conciliation for the Coal Trade of the Federated Districts, which includes representatives from Lancashire, Cheshire, Yorkshire, Staffordshire, Warwickshire, Derbyshire, Nottinghamshire, North Wales, Cannock Chase, etc., may be taken as representative of the first type. The board must settle upon wages for these districts, but "the rate of wages shall not be below 37½ per cent above the rate of wages of 1888 nor more than 60 per cent above the rate of wages of 1888, and no alteration in the rate of wages exceeding 5 per cent shall be made at any one time."[1]

The board agrees "upon a selling price of coal as being proportionate to a certain rate of wages," but the selling price is not the only determining factor. It is considered as "one factor only, and either side shall be entitled to bring forward any reason why, notwithstanding an alteration in the selling price, there should be no alteration in the rate of wages." Not merely the present state of trade is considered, but the indications which point to the future trend in prices are strong factors in determining an agreement. For instance, in reply to a demand for a reduction in 1909 the miners refused to lower their rates, but promised not to ask for a raise until a certain time in order that on the rising market the owners might recoup themselves for adverse conditions during a period of falling prices.[2]

[1] Second Report of the Board of Trade, 1910, on *Rules of Voluntary Conciliation and Arbitration Boards and Joint Committees*, p. 114.

[2] *Proceedings of Federated Coal Owners and Miners' Federation*, September 3, 1909, p. 8.

The board consists of an equal number of representatives elected by the Federated Coal Owners and the Miners' Federation, and a neutral chairman who has a casting vote. In case the parties cannot agree on a chairman he is appointed by the Speaker of the House of Commons.

The board has four stated meetings during a year and as many more as may be necessary. All questions are submitted in writing, but they may be supplemented by such verbal and documentary evidence as the parties may desire, subject to the approval of the board. If the parties cannot agree, the board is adjourned for a period not exceeding twenty-one days, which gives each side time for further discussion with its constituents. The chairman is then called in, and after hearing both sides of the case may give his casting vote or subsequently communicate his decision to the secretaries of both federations. He is not allowed to render decisions which split the difference. He may also refer questions back to the board for reconsideration without expressing his opinion upon them. This process goes on till the parties have reached a working agreement, and in the mean time the men remain at work.

Each party pays the expenses of its own officials and representatives, and the common costs, such as the expenses of the chairman and the general expenses of the board, the parties bear in equal shares.

In the Durham, Northumberland, and Cumberland districts, besides a general conciliation board, joint committees are appointed to look after local disputes and adjust rates of payment for altered methods of working. In the other districts of England, Wales, and Scotland joint committees are formed for special occasions. Also there are local "agents" of the miners, who, if they cannot settle local disputes, carry the cases to the joint committees or the general conciliation board.

The joint committee in Durham consists of six members on each side with an impartial chairman chosen annually. The county is divided into three districts, "and the decisions of the committee in all cases shall be such as to bring practices, hours, or wages as nearly as may be into accord with the recognized county standards."[1] Both parties before the committee are represented by their agents and bring such witnesses as they deem necessary. During the hearing of the case argumentation and discussion are not allowed, "the examination of witnesses being confined to putting the committee into possession of the facts bearing on the case." When the evidence is all in, the committee discusses it and endeavors to arrive at a decision. Unless they reach a unanimous decision, individual members are allowed to introduce motions which they think will settle the case justly. When the votes are equal, the chairman may himself decide the question or submit it to arbitration, but "the committee shall in all cases, where it is possible, determine the questions submitted to its consideration without calling upon the chairman for his casting vote." While the committee is arriving at a settlement the men continue at work and the decision is retroactive.

3. THE POLICY OF LEGAL ENACTMENT

A. Labor Representation

As we have seen,[2] the miners early became aware of the necessity for and the superiority of legal enactment to attain certain fundamental regulations which could not be got by conciliation and arbitration. However, the adherents of conciliation and arbitration expected to bring about universality more and more as unionism spread and

[1] *Bulletin of Bureau of Labor*, no. 98, January, 1912, p. 147. Reprint of revised rules of the Durham Joint Committee, June, 1911.

[2] See *supra*, p. 274.

as the conciliation boards grew in representation and influence. Undoubtedly this has been accomplished in respect to many minor working conditions, and such a fundamental and universal regulation as the eight-hour day was not thought to be too great an accomplishment. It is natural that this should not have been regarded as too hard a task, since it had already been accomplished in America. But, as was the case in America, it would probably necessitate a general strike, and with increasing strength and realization of power came a healthy conservatism that led to peaceful measures to obtain the eight-hour day.

In the middle seventies trade unionism in general became aware that the old Liberal and Tory parties were not *deeply concerned* about furthering the laborers' interests, and consequently they determined to have their own men in Parliament. In 1874 the miners, ironworkers, and other societies voted money for parliamentary candidatures, and in the general election that followed, Alexander Macdonald and Thomas Burt, who were officials of the National Union of Miners, became the first "Labour members" in Parliament.[1]

A. THE "LABOUR REPRESENTATION SCHEME"

Almost at the beginning of labor representation the miners' representatives from Durham and Northumberland in Parliament were found on the side opposite to the representatives of the miners from the other coal fields in the matter of a legal enactment of an eight-hour day. This circumstance, coupled with the fact that the Labor men held to old party affiliations, tended to lessen their force as distinctly labor representatives.

In 1893 a group of labor delegates formed the "Independent Labour Party," with the hope of establishing a connecting link between the Socialists and the labor

[1] Webb, *op. cit.*, p. 273.

unions. Of the twenty-nine candidates put in the race for parliamentary membership in that year, only five were elected. By 1899 it was found necessary to seek closer relationship with the trade unions in order to increase the labor representation in Parliament. This was to be accomplished by the formation of a "Labour Representative Committee." The Liberal and Conservative labor representatives of the Trade-Union Congress were outvoted on the question of the formation of this committee, and when it was submitted to the vote of the unions the affirmative vote was only 546,000 as against a negative vote of 434,000.[1] The action of the Taff Vale Railway Company, brought against the Amalgamated Society of Railway Servants, resulted in a decision (in 1901) subjecting the unions to the payment of damages for engaging in picketing which caused the railway employees to break their contractual relations. This aroused all the unions to political action to obtain a law that would secure their funds from such attacks. By 1901 the sense of the importance of the functions of labor representatives had assumed proportions which warranted the executive committee of the Miners' Federation in drawing up a scheme for the further encouragement of the policy of electing and supporting Labor members in Parliament.

The plan for the purpose was known as the "Miners' Federation of Great Britain Labour Fund Scheme." The fund was built up by the payment of threepence per quarter per member or one shilling per year. A district which failed to pay this amount per member was not eligible to nominate candidates at "Bye and General Elections" and could not receive returning officers' fees or other election costs. All districts which had a membership under 10,000 were allowed one candidate, and those having more than 10,000 were allowed another candidate for every 10,000 "financial" members.

[1] Orth, *Socialism and Democracy in Europe*, p. 223.

There were several qualifications necessary before a man could be eligible as a "Federation Candidate." He had to be adopted by the Federation and Federation executive board, which decided whether there was a "reasonable hope" of the seat being won. Furthermore, the candidate had to be a "financial" member of the Federation, and either "working in or about the mines or [be] a Miners' Representative [official] within the Federation area."[1] Nor could officials from other districts be selected, but a candidate must be "selected by and in his own District." When elected, the representative was paid £350 per year and given a first-class railway pass "covering the sitting of Parliament in each year."

The scheme was not established "for the purpose of wrecking any political party," nor did it prevent a candidate from running under any name he wished, provided he was adopted by the executive board as a candidate. Furthermore, the board rendered a final decision on "all questions arising out of payments into and out of the Labour Election Fund." So the board was in a position to compel honest representation of labor as a primary requisite.

B. MEMBERSHIP IN THE "LABOUR PARTY"

The scheme was adopted by the Annual Conference in 1902, and two years later the miners' annual conference, in the following resolution, instructed its representative in Parliament to join the labor group: —

> We hereby express our belief in the principle of political independence of all Labour Members in Parliament, and that those members who may be returned under the auspices of the Federation be instructed to do everything possible to initiate or support a movement for the formation of a Labour Group in the House of Commons.

[1] *Proceedings of the Miners' Federation of Great Britain*, 1901.

The "Labour Representative Committee," after the Taff Vale decision in 1901, adopted the name of "Labour Party," and the thirty-two Labor members in the House of Commons constituted themselves as a separate organization. In 1909 the affiliation fees, and contributions were paid by the Miners' Federation, and its representatives in Parliament became members of the Labor party.[1] We must remember that the forty-two votes of the Labor members in Parliament are far more significant than their number would naturally indicate. They represent a vast economical as well as political pressure. Moreover, there are hundreds of thousands of labor votes outside of the Labor party upon which other party representatives in Parliament are dependent, and which may easily throw their influence for policies which are distinctly favorable to labor. We shall see the force of this in 1911 during the struggle for the minimum wage.

C. THE STEELE CASE, 1907

The year 1907 brought about developments which threatened seriously to disturb the whole labor representation scheme. A Welsh miner brought suit to recover four shillings which had been levied upon him for the labor representation fund, and he sought an injunction which should restrain the Federation from making further contributions from its funds to support labor members.[2] The miner had joined the Federation in 1900, and in 1901 the rules had been altered so as to provide funds for returning and maintaining representatives in Parliament. The plaintiff held that he was compelled to pay contributions to support members of Parliament who held views entirely opposite to his own. The plaintiff was not successful in the

[1] *Proceedings of Annual Conference of Miners' Federation of Great Britain*, 1909, p. 10.

[2] *Steele* v. *The South Wales Miners' Federation and Others.* Reprint in *Proceedings of Annual Conference of Miners' Federation of Great Britain*, 1907.

county court nor upon appeal to the King's Bench Division of the High Court of Justice, for the court held that "It was intended by these miners, when they associated, that there should be a power, amongst others, if it was thought fit, to raise by levy sums of money to support and maintain a Representative in Parliament, and that all the organs of the body have agreed that this should be done."

D. THE OSBORNE CASE, 1909

The next year a similar case was started which affected the whole trade-union world. It found its way finally to the Chancery Division of the High Court of Justice and there met a different fate from the Steele case. W. V. Osborne,[1] a foreman porter and a member of the Amalgamated Society of Railway Servants, brought suit to recover his contributions to the parliamentary fund and to obtain an injunction against further use of the society's funds to support the Labor party representatives. He entered his plea on the same grounds as in the case of Steele, i.e., against compulsion to support representatives with opposite political views.

The lower court decided for the society, and the Justice based his decision on previous decisions of the High Court of Justice. When it came before the Chancery Division, the court held that the rules of the society providing for labor representation were outside the scope of trade-union activities as defined in the Trade-Union Acts of 1871 and 1876. A further objection was expressed that "rules designed to procure the election of members of Parliament who should be bound to vote in a prescribed manner, and the expenditure of funds for their maintenance in consideration of a pledge to vote in that manner, were contrary to public policy."

The society appealed to the House of Lords, and the

[1] *Osborne* v. *Amalgamated Society of Railway Servants* (1910, A. C. 87).

Law Lords unanimously upheld the High Court of Justice. This decision was rendered in December, 1909, and by July, 1911, only 200,000 of the 600,000 members of the Federation were free from injunction. The Annual Conference of the Miners' Federation in 1910 passed a resolution strongly protesting against the decision, commanding the parliamentary members to "support all possible legislation with a view to giving relief in this direction" and urging coöperation on the part of all the various executive committees having the matter in charge. In the mean time every effort was made to keep up the parliamentary fund by voluntary arrangements. We might conclude from this peaceful way of dealing with the matter that the Federation did not realize the full force of the decision on the trade-union future. In fact, this sort of procedure was far from the liking of the radical members, who were disgusted with the "lying-down" way in which the Federation had taken it, and thought the Labor members ought to have walked out of Parliament, gone back to their constituencies, and started a revolution.

E. GOVERNMENT PAYMENT OF PARLIAMENTARY MEMBERS, 1911

But the wiser heads in the Federation had learned to work through the ordinary channels and, finding response in the political mechanism, were able to reach a better solution of the problem than had existed under the old régime. By a bill passed in August, 1911, payment of members of the House of Commons by the Government was inaugurated, each member (except officers of the House, ministers, and officers of the King's household) receiving £400 a year.

Although the Act of 1911 assured the trade-unionists of parliamentary representation, the Osborne decision still governed the use of union funds for political purposes. To offset this handicap the Labor members succeeded in

getting an act passed in 1913[1] which permits the unions to use their funds for paying the expenses of their candidates, for holding political meetings, for distributing campaign literature, and for the support of their members holding any public office. Any trade-unionist who objects to contributing to a political fund may be exempted by giving notice of his objection. Such a member is protected from persecution and discrimination by his privilege of appeal to the Registrar of Friendly Societies, who has full power to remedy such a breach of trade-union rules.

B. The Eight-Hour Law, 1908

A. DIFFICULTY OF OBTAINING THE ACT

In connection with the way the miners obtained the eight-hour law we have a good illustration of the interplay of conciliatory methods with the method of legal enactment. We have seen that Alexander Macdonald had the eight-hour law on his programme in the sixties. Moreover, we saw that the opposition on the part of Durham and Northumberland was the disrupting force among the miners which prevented unity of action on this measure in Parliament. In 1901, we find Durham still holding tenaciously to her position that "there must be some men — if the work is to be carried on safely and regularly — who must work more than eight hours; there are men who must go down before the hewers [miners] go down, and there are men who must remain after the hewers come up — we cannot make a rigid rule all round."[2]

The bill before Parliament failed to pass and a special conference of the Federation in July, 1902, resolved to use trade-union action to force the measure, "seeing the

[1] Trade-Union Act, 1913, 2 & 3 Geo. 5, chap. 30.

[2] *Mines Eight-Hour Bill in Committee*, June 12, 1911, p. 7. Reprint in *Proceedings of Annual Conference of Miners' Federation of Great Britain*, 1911.

Government will not allow a legal eight-hours day, and also that the coal owners urge on every occasion that the eight-hours day be got by Trade-Union effort." The conference accordingly resolved to have a meeting with the coal owners. But instead of devising means by which the regulations could be made universal, the owners spent their time in framing objections. In the first place, they considered such a measure as "an unjustifiable interference with the freedom of the subject." They were convinced from the statistics they had collected that the output would be reduced from eleven to fifty per cent, according as the mine was favorably or unfavorably situated. An increased cost ranging from 9*d.* to 1s. 6*d.* per ton would accompany this reduced output and necessarily raise the selling price of coal. The hewers who mine coal at a certain price per ton could not expect increased rates, and shorter hours would lessen their wages. The men who were working by the day certainly could not expect to receive the same wage, since "it would be unfair to the employer that he should be required to pay the same wages for less work." Moreover, decreased output and increased cost of fuel would seriously handicap the more important industries which were subject to keen competition from other countries. Finally, it would work great hardship on the older men, and the increased hurry would increase the number of accidents.

These were the stock arguments which the miners had heard from the time the subject of the eight-hour day was first broached, but on previous occasions they had not been advanced in a national conference nor so impressively presented. Evidently there were hard facts in the everyday life of the rank and file that required stronger arguments than these to offset them satisfactorily. When the miners saw that they could not obtain the eight-hour day peacefully through conciliation, they again turned to legal enactment.

Northumberland had experienced a change of heart in 1907 and Durham in 1908, and during the struggle for the eight-hour bill of the latter year they were within the Federation and were fighting for the measure. The bill met with strong opposition at every stage in its passage. On the committee that considered the bill were twelve Labor members, eight of whom were miners, yet it involved a fight of twelve days before the committee could bring the bill forth. The opposition consumed as much time as possible, and as the end of the session was drawing near, "the Federation did all they could to support the Government to carry the bill. Their members in the House of Commons sat for hours like dumb dogs, almost bursting to speak, as the temptation to reply to the opposition was very great at times."[1]

B. PROVISIONS OF THE ACT

The act[2] provides that no "workman shall be below ground in a mine for the purpose of his work, and of going to and from his work, for more than eight hours during any consecutive twenty-four hours." But it is not considered a contravention of the act when a workman is below ground for a longer period to render assistance in the case of accident, to meet any danger or apprehended danger, or to deal "with any emergency work uncompleted through unforeseen circumstances which requires to be dealt with without interruption in order to avoid serious interference with ordinary work in the mine, etc."

The owner or manager may fix the time at which the lowering of the men into the mine shall begin and end for each shift, also for raising the men. These regulations must be embodied in a notice which shall be posted in a conspicuous place, and they are subject to a revision

[1] *Quarterly Report of International Miners' Federation*, March, 1909, p. 5.

[2] Coal Mines Regulation Act, October, 1908.

by the government mine inspector, if a reasonable time is not allowed. Furthermore, the owner or manager is required to keep a register containing particulars regarding the raising and lowering of men "and the cases in which any man is below ground for more than the time fixed by the Act, and the cause thereof, and the register shall be open to inspection by the inspector." The workmen may appoint their checkweigher or any official to see that these regulations are carried out, and false entries in the register subject the offender to a fine of five pounds for each offense.

The owner or manager may extend the working hours "on not more than sixty days in any calendar year by not more than one hour a day, and on any day in which an extension of time is made in accordance with the section as respects any mine, the time as so extended must be kept in a register as directed by the Secretary of State and subject to inspection by the inspector." The King may "in the event of war or of imminent national danger or great emergency, or in the event of any grave economic disturbance due to the demand of coal exceeding the supply available at the time, by Order in Council suspend the operation of this Act to such extent and for such period as may be named in the Order, either as respects all coal mines or any class of coal mines."

In the event of contravention of or non-compliance with the act, the owner is subject to a fine of two pounds and a workman to a fine of ten shillings. The owner is not subject to the penalty if he can prove "that he has taken all reasonable means by making, publishing, and to the best of his ability enforcing, regulations for securing compliance" with the act. The workman is not guilty of an offense if he can prove that he was prevented from returning to the surface within the time limit "owing to means not being available for the purpose."

C. AMENDMENTS

In 1909 the law was amended so as to provide that an eight-hour period of work should be "during any period of twenty-four hours, reckoned from midnight to midnight," and in 1910 further provision was made to restrict the hours of surface workmen, who have to work seven days a week, to eight hours.

When the act went into effect considerable friction arose over reduction of wages, the sixty-hour clause, the number of shafts to be worked, and the number of workmen in a working "place." But the miners showed a disposition to bring a national stoppage rather than to yield any of the important benefits from the act, and the minor ones were adjusted by conciliation. The difficulty of obtaining this act and its detailed regulations stand in great contrast to the inauguration and enforcement of the eight-hour day in America by strikes or conciliatory methods. The only advantage of the British law is that it compels universal compliance and places all on an equality that is much harder to obtain by conciliation. Legal enactment with all its rigidity will naturally follow where it is impossible to obtain regulations by agreement between the industrial parties.

C. The Minimum Wage Act, 1912

A. GROWTH OF THE MINIMUM WAGE DEMAND

Before the eight-hour regulation had been attained a movement had already been started which was to lead to the struggle for the minimum wage. In February of 1907, at a special miners' conference held to discuss the proposed export tax on coal, a resolution was introduced "having for its object the raising of the basis rate of wages in all coal-producing districts of the United Kingdom." In the same year the miners approached the

owners "with a view to substituting for the 1879 or 1888 rate of wages, a basis rate including not less than thirty per cent of the present percentages, upon which all future advances in wages shall be calculated." They failed to gain any satisfaction from the owners, but they appointed a joint committee to "collect information and watch developments with a view of assistance being rendered to any district, in order to secure this object."

The following year was taken up with the struggle for the eight-hour law, but in 1909 the district of Yorkshire introduced a resolution which should provide measures to obtain a minimum wage of eight shillings per day and the resolution was carried by the conference. During the same year the Scottish coal owners sought to reduce the wages of the Scottish federation twelve and a half per cent, but the miners served notice upon them that "they would resist any attempt to reduce miners' wages below an average of six shillings per day, or in other words, fifty per cent on the average standard rate of 1888." The miners of the other districts expressed their determination, by a majority of over 400,000, to support the Scots in their struggle, but special conferences aided by mediation from the Government narrowly averted a national strike. A new conciliation board was formed for Scotland, the rules of which incorporated the new basis and conceded the minimum wage.

B. ABNORMAL "PLACES"

In 1910 the miners made their resolution more specific and resolved to meet the owners in each district in order to seek "an individual minimum day wage for all men and boys who are now paid by the ton, yard, etc." How much the day wage should be was left to the district. The impelling force behind this resolution was a sense of injustice in connection with the treatment of men who had to work in abnormal places. The miners had proved

to their satisfaction that the excessively low wages some men were getting were due to the unfavorable conditions under which they were working. When first-class miners who earned high wages under normal conditions were placed at work in abnormal places, their wages fell to the level of the other unfortunates. The practice of the owners in the past had been to dole out a few extra shillings to men who were working in such abnormal places. But this was a discouraging, unsatisfactory, and degrading process, and the miners' officials were constantly called upon to go to the owner or manager and plead for a few shillings for such men. Moreover, failure to get aid from the owner in many cases made the unfortunate a serious burden on the local miners' federation. The miners concluded that the individual worker should not be made to suffer for unavoidable conditions in the industry, but rather that losses due to abnormal places should be a charge upon the entire production of coal. The only way to accomplish this was through a minimum wage to the man who did a fair day's work under difficult conditions.

Supplementary to the abnormal working conditions which caused dissatisfaction were the overcrowding of the mines with men, the forcing of extra timbering on the men, and various other duties which took their time and lessened the wages of the piece-workers.

C. PRELIMINARY NEGOTIATIONS

The miners sought to settle these matters with the owners by districts, but were met by the argument that the varying capacity of the men, the necessity which it would involve of discharging the old men, and the indisposition of some men to earn what they could would make a minimum wage impossible. "It is always the men who are abnormal, not the places," said one miner. Some of the owners were willing to grant the minimum wage (but they were looked upon as "blacklegs" among the owners in

general), and others stated that it was a national question and should be settled on a national basis.

Accordingly the miners sought a national meeting of coal owners and miners. At a national joint conference on September 29, 1911, the owners showed that they were not ready for national action, and submitted a statement in which they recognized the right of workmen working in abnormal places "to receive wages commensurate with the work performed"; but they concluded that conditions between districts varied too greatly to permit of their settling the matter on a national basis. Therefore they suggested district settlements.

The miners again attempted to settle by districts, and the owners in the districts associated with the English Conciliation Board (the Midland counties) agreed to the principle of the minimum wage,[1] but the other district owners had not changed their attitude. The miners again sought a national conference, but by this time the representative owners in the Midland counties had changed their attitude, as their constituencies in "their own districts had repudiated their suggestions [and] they were without authority" to put the minimum wage into effect.

D. THE STRIKE BALLOT

At a special conference on December 20, 1911, the miners decided, as a last resort, to take a ballot, and, in case the vote was favorable, to give notice of their intention to strike so that agreements should terminate by the end of February, 1912. The results of the ballot on January 10–12, 1912, showed a majority of 330,080 votes in favor of a strike, and by February 26 upwards of 800,000 miners were idle.[2]

In the mean time there had been no relaxation of the effort to settle the dispute before the agreements should

[1] *Miners' Special Conference*, November 14, 1911, p. 46.
[2] *Hazell's Annual*, 1913, p. 568.

terminate. In the further negotiations carried on by the miners and owners the miners had framed a schedule of minimum wages which ranged from 4*s*. 10*d*. for the Forest of Dean to 7*s*. 6*d*. for Yorkshire. It was understood by the public in general that the miners demanded a minimum of five shillings for men and of two shillings for boys.

E. INTERVENTION BY THE GOVERNMENT

The prolonged negotiations of the miners and owners having met with no success, the Prime Minister intervened. He brought about a joint conference of the parties at the Foreign Office on March 8, which was without results, and on the 15th he announced in the House of Commons the introduction of a Minimum Wage Bill. When the owners became aware that wages were to be made a subject of legislation, they protested vigorously. "It was confiscation. It was flying in the face of economic laws." And the owners persisted so long in their opposition that the Prime Minister revealed to them that the King was in favor of the proposition. "The coal magnates of South Wales were dumbfounded. They had supposed, as the Paris 'Matin' says, that a king is always on the side of vested interests. The coal owners who held out were told that if their attitude remained unmodified, they might be summoned to Buckingham Palace, there to be confronted by the spokesman for the miners. This seems to have brought the most obstinate to terms." [1]

It is estimated that by March 8 a million and a half of workers were idle and many industries had suspended operations through lack of coal. The extent of the strike was greater than that of the big strike of 1893, and the rapidity with which other industries were affected caused the gravity of the situation to be quickly realized by the whole nation. A coal famine came about in spite of the

[1] *Current Literature*, vol. 52, p. 386.

fact that the owners had anticipated the strike and had a large amount of coal in storage.

F. THE PROVISIONS OF THE ACT

As soon as it was evident that the Minimum Wage Bill would be passed, the strike was declared off and the men returned to work. On March 29 a Minimum Wage Bill with the following provisions was enacted: —

The rates of five shillings for men and two shillings for boys which the Prime Minister considered "obviously just" were not inserted in the bill, although the Government had offered to include them during the early stages of the negotiations. Attached to this offer was a provision that "the 5*s.* and 2*s.* rates should be settled by arbitration on a national basis. If the arbitrators found that the 5*s.* and 2*s.* were, to use Mr. Asquith's words, 'obviously just,' then these rates would have applied to every mine in the United Kingdom. Incredible though it may seem, the miners' leaders positively refused to entertain this proposal."[1] It would not seem so incredible if this provision carried with it the possibility of having the minimum which had been obtained by conciliation, and which was higher than five shillings in most districts, reduced to a lower level. However, the law provided that settlement of the minimum wage should be made by districts and by district boards, with the further provision "that the employer shall pay to that workman [any workman under ground] wages at not less than the minimum rate settled under this Act and applicable to that workman."[2] This would seem to have simply insured a certain minimum which might be settled upon for work in abnormal places. But it did not necessarily include any provision for a basic minimum wage which would apply all over the United Kingdom and insure every underground worker a certain standard of living. On the

[1] Markham, *Quarterly Review*, vol. 216, p. 570.
[2] Coal Mines Minimum Wage Act, 1912.

contrary, the principle was maintained of permitting the districts with superior advantages and resources to continue to profit by these circumstances.

The joint district board may lay down rules providing for the exclusion of aged, infirm, and disabled workmen from their right to wages at the minimum rate, and it may "lay down conditions with respect to the regularity and efficiency of the work to be performed by the workmen, and with respect to the time for which a workman is to be paid in the event of any interruption of work due to an emergency." If the workman does not comply with these rules he forfeits the right to wages at the minimum rate, "except in cases where the failure to comply with the conditions is due to some cause over which he has no control." The rules shall state also the persons by whom and the method by which applicability is to be determined, and under what conditions a workman shall be judged as not having complied with them.

The act went into effect immediately, and a workman could recover his wages at whatever rate was settled upon, but the operation of the regulations under the act must not interfere with any other customs or agreements by which the workmen were paid a rate higher than the minimum. In settling the minimum rate the board must "have regard to the average daily rate of wages in the district paid to the workmen of the class for which the minimum rate is settled."

The Board of Trade is empowered to recognize the joint district boards that are already in existence, or any body of persons with an independent chairman which the Board of Trade believes fairly and adequately represents both parties. If any board does not provide for equality of voting power, the Board of Trade can require it to readjust such a rule as a condition of gaining recognition. The Board of Trade can appoint a person or persons to settle upon a minimum wage if within two weeks the regular

district boards have not been recognized through failure on the part of either party to appoint its representatives. If within three weeks after the joint board has been recognized, it fails to settle upon a minimum wage, the chairman of the board may adjust the rates and make the rules, provided that the members agree or the chairman of the joint board directs that a period longer than three weeks is necessary.

The joint district board settles upon general minimum rates and general rules for the whole district. In case a certain class or group of mines requires different regulations, the board may divide the district into subdistricts and treat these separately. Or for the purpose of settling district rules, two or more joint district boards may combine. The rates and rules may be readjusted at any time if both parties agree, or after one year has elapsed if there seems to be any considerable demand for readjustment from either side.

G. SETTLEMENT UNDER THE ACT

The act expires in three years unless Parliament shall determine otherwise. The minimum wages settled under the act vary from 4*s.* 10*d.* to 7*s.* 6*d.* for men, and the wages for boys are graduated from 2*s.* at the age of fourteen to as high as 5*s.* 6*d.* at the age of twenty-one.[1]

The rules which have been established by the joint Yorkshire district boards are typical and include the following provisions: Aged and infirm men are not entitled to the minimum wage, and aged workmen are those over sixty-five "and workmen over sixty who in the opinion of the board are unable to do a fair day's work. Infirm workmen are those who from bodily infirmity or illness, or accident, or disease, are unable to do a fair day's work." Unless a man works eighty per cent of the time the mines

[1] Minimum Rates and District Rules of the Joint District Boards under the Minimum Wage Act.

are operated, he forfeits the right to the minimum wage except in cases of sickness or accident, of which proper notice must be given to the management. If a workman becomes a party to any arrangement for limiting output, he forfeits the minimum wage. Nor is he entitled to the wage if when he presents himself for work he is informed that something has happened which prevents the working of the mine. In case of accident or any cause which necessitates the closing of the mine during the regular working hours, the workman is entitled to only the percentage of the minimum wage corresponding to the time worked.

In case a dispute arises as to whether the minimum wage is to apply to a workman or as to whether he has failed to comply with the regulations, the question may be decided by agreement between the workman and the officials of the mine. Failure to reach an agreement brings the case before the manager of the mine and a person working in or about the mine who may be nominated by the workman. If these two fail to agree, the case is brought before a committee appointed by the secretaries of the joint district. When the committee cannot agree, the case is decided by a chairman selected by the parties, or, if they cannot agree on a chairman, by a chairman selected by the chairman of the joint district board. The decision shall not be delayed more than twenty-one days and during that time the workman's right to receive the minimum wage is reserved.

When decisions have been rendered under this system, a certificate must be given to the parties which shall be binding, except in cases where the workman in dealing directly with mine officials shall give notice within sixty days after the signing "that such certificate has been obtained from him by threats, undue pressure, or other unfair means." Under such circumstances the case is opened anew and goes before the committee, who may cancel the certificate.

H. EFFECT OF THE MINIMUM WAGE

It will be seen from the provisions of the act and the working of the same that there is no minimum wage in the industry as a whole, but simply a minimum for each mine, group of mines, or district, as the case may be. It has been prophesied that a real minimum wage on a national scale would necessarily close the poorest mines and encourage more efficient management. But the act protects the owners of the poorest mines and yields to their claim that "they must have cheap labour irrespective of the cost of living." This lowers the standard of living and gives a subsidy to the owners of poorly managed mines. In the words of one who, though a coal owner, is first of all a public-minded citizen and interested in the wisest public policy: "The special minimum rate provided for in the act is, moreover, fair neither to owners nor to men, for an owner who starves his property and spends all his profits is permitted to pay a lower minimum rate of wage than another who may spend half his income on improving and maintaining his mine in a high state of efficiency. Especially is this an injustice on the workman, for in a well-managed mine the men get good clearance [for their coal]. In the badly equipped mine the reverse is the case; and low wages are paid because the men are unable, through bad roads, shortness of tubs, out-of-date haulage, etc., to get clearance; for it must always be remembered that hewers of coal are invariably paid on the tonnage of coal gotten."[1] He was further convinced that if a universal minimum wage was not sufficient incentive to increased efficiency in management which would enable the owner to keep his mine open, the men would readily find occupation in the better mines, and there working under better conditions would produce a larger output than before.

[1] Markham, *op. cit.*, p. 566.

I. POSSIBILITIES OF THE INDUSTRY BEARING A MINIMUM WAGE

To those who questioned the ability of the industry to bear a minimum wage the miners had a ready answer. For five years one of their own number and a firm of chartered accountants had been busy in making a study of profits and wages in the British coal trade.[1] Their study included ninety-two public companies which represent one third of the British coal trade in production and profits, and they make no pretense that their figures include more than "the minimum (not maximum) results of the trade in the country." The conclusions are based on average dividends paid on ordinary capital over a period of thirteen years, and the data are not drawn from "a selected set of companies." Among these were six companies who paid no dividends at all and many others whose failure to pay dividends every year brings their average very low. Even on this basis the average return on capital in the form of dividends is 9.6 per cent, and the shareholders have received their capital back one and one fourth times in the thirteen years "in addition to which the original capital not only remains intact, but has been added to by various appropriations from profits in some of the many forms of reserves — visible or otherwise."[2] In comparing amounts received in wages and in dividends (which the authors do not consider a fair comparison because the full amount received by labor is visible while only a portion of the benefits accruing to capital is evident), a basis of 19*s.* 9½*d.* per week for miners is used as contrasted with a three per cent return on capital. The 19*s.* 9½*d.* is based on the earnings of the highest paid labor in the Durham coal trade, which may be considered as approaching the average of the better paid labor over the industry as a

[1] Richardson and Walbrook, *Profits and Wages in the British Coal Trade.*
[2] *Ibid.*, p. 19.

whole and leaves out of account the great mass of workmen who are receiving much less. Three per cent is considered a fair basis for capital, since it is the "recognized economic return of interest on capital." From this comparison it is found that, while wages average 45 per cent over the basis taken, ordinary dividends average 220 per cent over the basis, or, in other words, capital benefits in the ratio of 5 to 1. In analyzing the comparison of wages and dividends of a firm which balanced £631,000 paid in wages over against £39,086 paid in dividends, it was found that after including "debenture interest,"[1] "visible reserves," "capital expenditure" written off out of the year's profits, and the income tax which had already been deducted, "the total *known* profits of this concern . . . exceeded £80,000." Comparing the returns on this basis, "the average amount received by each employee is £66 15*s.* 10*d.*, while the profits for the year for each shareholder average £68 19*s.* 3*d.*"

But when a comparison is made (for the whole industry) between wages and total profits, which include preference dividends and debenture interest besides ordinary dividends, it is found that capital profits in the ratio of 6 to 1, or 293 per cent as against 45 per cent. The investigators are confident that the total profits are the minimum profits, for they were not able to obtain the total profits of all the concerns and are not sure that they got the total profits of those firms which are supposed to have rendered a full report. But even on this basis the average percentage of total profits on total capital is 11.88 per cent. From this investigation the authors concluded that "an average of about five shillings per week [could] be added to the miners' wages all around, and still leave an average return on the total capital sunk in the coal trade for the whole period of thirteen years of at least three per cent per annum."[2] Or 2*s.* 6*d.* could be added and still

[1] The same as our interest on bonds.

[2] This is exclusive of the income tax at the source.

give capital an average 9.6 per cent dividend, "merely by utilizing undivided profit and without affecting the dividends which have been paid by the various companies in the past thirteen years."

The developments in the British coal industry, which we have briefly described, should enable us to anticipate, to some extent at least, the trend of evolution which lies before the coal industry of America. Up to the present time trade unionism in the British coal industry has not had to face a united body of capitalists with a national organization, yet it has had a very severe struggle to obtain concessions by peaceful means. The growing realization of the power of the miners' national organization may cause British owners to unite to meet the men with a similarly unified front. In fact, the miners were anxious to have the owners make a settlement on a national scale of the minimum wage. But concentration of ownership and control has not progressed in Great Britain to the degree that it has in our anthracite field and in some portions of our richest bituminous field, and the force of competition is still a disrupting factor among the owners.

The next big issue in the mining industry of Great Britain will undoubtedly be the nationalization of mines. This movement has been on foot for some years, and the miners have already taken definite parliamentary action looking to its accomplishment. The "way leaves,"[1] mine royalties, and large profits of the owners stand as a constant challenge to the men who mine the coal. National ownership, if it comes, will probably come peacefully because the British already have at hand the social and political machinery with which to make it effective.

In the process of working out peaceful adjustments, the average individual develops to the point where he is fitted

[1] The charge made upon every ton of coal by a property owner where entrance to a mine has been gained through his property. It is looked upon as legal "blackmail" by owners and miners.

to carry out his part under new conditions. In the anthracite negotiations of 1912, utterance was given to ideas that will probably evolve in time into a frank demand for national ownership of coal mines. As yet we have hardly begun to take measures to encourage orderly development and sanity on the part of the workers in the working-out of industrial adjustments. Lack of public policy or repression causes the labor unrest to take the form of syndicalism and the Industrial Workers of the World. With the development of a greater solidarity among the workers and with the increasing economic pressure due to the exhaustion of our free land, we may expect a demand for social and political action which will put a severe strain on our rigid constitutional system. Even in Britain, where political institutions are more elastic and where pressing demands can be met more readily by legislative action, it is only after a struggle that adjustments are made to fit the needs resulting from economic and social pressure. There the workers are now met by a frank, conciliatory policy that ramifies through all industry. But what of the future in this country if in 1916, when the present agreements in both the bituminous and anthracite fields expire simultaneously, either party assumes an arbitrary and unyielding position?

CHAPTER IX

OUTLOOK FOR THE FUTURE

1. RELATIONSHIP BETWEEN A CONCILIATORY SYSTEM, PRICES OF COAL, AND A REGULATORY POLICY

When we ask, "What of the public?" it would seem that this question has at least two aspects. The public has been made to feel that there is very close connection between a system of conciliation and arbitration and the price it pays for coal. Furthermore, we have seen that on several occasions the public has found its whole supply of coal cut off because of the lack of a system of peaceful settlement which would permit the parties producing coal to come to an honorable and fair adjustment of their difficulties.

Shortly after the last anthracite agreement in 1912, consumers were informed that they must pay a higher price for their coal because wages had been raised. This seemed a fairly reasonable explanation, but it did not satisfy everybody that the wage-earners were getting all the increase. A resolution passed by the House of Representatives on July 29, 1912, directed the Secretary of Commerce and Labor to obtain information which would show how much "the coal miners were benefited by the recent strike agreement, and how much and for what reasons and by what means the cost of coal to the general consumers was at the same time increased."[1] As a result of this investigation it was shown that seven companies,

[1] *Increase in Prices of Anthracite Coal*, 62d Congress, 3d Session, House Doc. no. 1442, p. 9.

which produced about seventy per cent of the total sales, had obtained about $13,450,000 "more than they would have received for the same tonnage at the prices previously existing."[1] Of this amount the miners received about $4,000,000. Since the cost of labor constitutes between seventy-five and eighty per cent of the total colliery cost, the consumers may well question the extent to which the employers are to be allowed to raise prices every time the miners are granted an increase in wages. Nor are the consumers protected by anything other than the privilege of substituting some other kind of fuel when the prices of coal become prohibitive. This is not possible without a great deal of trouble and expense, and there are comparatively few substitutes to be had. Consumers will pay almost extortion prices for anthracite rather than substitute soft coal with its disagreeable qualities, and this fact, in connection with the expense involved, gives us a conception of the margin the operators have to play upon before they reach the maximum which the traffic will bear. Since the domestic consumers have to pay for the greater part of this increase (the average increase on domestic sizes was 31.23 cents per ton, while the pea coal and steam sizes were increased only 16.14 cents per ton),[2] it becomes evident that protection from such a burden must come from the Government. Thus far under our governmental policy of *laissez-faire* in industry, the organized and powerful have been able to gain their purposes and the disorganized consumers are left to express their protests at election times. Before we can be in a position to appreciate the complexity of the problem before us we shall have to look back upon the efforts that have been made and the recommendations suggested for dealing with the growing coal monopoly. In conjunction with a constructive policy which would prohibit the operators from shifting upon the

[1] *Increase in Prices of Anthracite Coal*, 62d Congress, 3d Session, House Doc. no. 1442, p. 11.

[2] *Ibid.*

public an increase greater than that granted to the wage-earners, plus legitimate profits, we must have a further extension of the activities of the Government into the realm of industrial agreements which shall encourage within the parties a feeling of greater responsibility to the public.

In our efforts to prevent the growth of a monopoly control and the fixing of prices of coal, our public policy has gone through an evolution based on common law, state statutes and constitutions, national laws in restraint of trade with court interpretations, with barely a beginning at a policy of regulation under the Interstate Commerce Commission. We have clung tenaciously to the theory that law *per se* is quite sufficient and needs but little coöperation on the part of the administrative branch of the Government. We have expected that the mere existence of law would be sufficient to counteract the influence of fundamental economic forces. But these, as they were bound to, have worked themselves out without the guidance and coöperation of the Government.

A. Recommendations of Investigating Committees

a. The committee of 1888

With the prevalence of abuses in freight rates, increasing concentration of ownership of coal lands, and the growth of labor struggles involving large numbers, we have appointed our investigating committees, but their recommendations we have accepted slowly if at all. As early as 1878, the Legislature of Pennsylvania recognized the power of the railroads to force concentrated ownership by discrimination in freight rates, and a joint resolution was passed petitioning Congress to legislate "for equity in the rates of freight."[1] The congressional committee of 1888 which investigated the anthracite troubles found practically the same conditions we have now except that they

[1] Lloyd, *Lords of Industry*, p. 237.

were not developed quite so far. Under state remedies for dealing with the situation they suggested, first, that the state tax "idle anthracite lands on the basis of their full market value," which would force the holders to work, sell, or lease them.[1] By the exercise of the right of eminent domain the State could take possession of the lands at a fair valuation and then "throw them open to free competition in mining at a reasonable royalty, sufficient to pay the interest on the debt she would thereby contract." Through the exercise of the police power the State could fix a minimum freight rate and a maximum royalty. On the side of national remedies the committee suggested that Congress could prohibit interstate carriers from engaging in mining and manufacturing. And further, Congress could prohibit the consolidation of parallel or competing lines which tap the anthracite region.

B. THE COMMITTEE OF 1893

The congressional committee of 1893 concluded that the railroad companies had entered into a combination to control output and fix prices. They were fortified in this conclusion by evidence of monthly meetings of railroad representatives in which, as the result of tacit understanding, the industry was regulated. The railroads forced recalcitrant operators to limit their output by withholding cars from them. These monthly meetings explained why the annual output of coal was about 10,000,000 tons less than the capacity of the mines would warrant. The manipulation of freight rates was also used to hold the independent operator in line. The Interstate Commerce Commission had determined, in the case of Coxe Brothers and Company *versus* the Lehigh Valley Railroad, in 1888, that the railroad was charging fifty cents per ton above what the commission regarded as a fair rate. Yet the commis-

[1] *Report on Labor Troubles in the Anthracite Regions*, 1887–88, *op. cit.*, p. xvi.

sion had at that time no power to fix rates. Because of these conditions the committee centered their recommendations about features which would give the Interstate Commerce Commission adequate powers to deal with the situation, and suggested that state and national Governments take united action in divorcing the business of transportation from mining and manufacturing.[1]

C. THE INTERSTATE COMMERCE COMMISSION INVESTIGATION, 1907

The Interstate Commerce Commission in 1907, after inquiring into the ownership of coal lands, stock ownership in coal companies by railroads, and other factors which might give monopoly control of the bituminous coal in Pennsylvania, Maryland, Virginia, and West Virginia, set forth the following facts which it regarded as contributory to discrimination and monopoly power.

The first great factor which permitted unfair car distribution was "want of publicity on the part of the carriers in their dealings with shippers." If there was any system to the car distribution it was hard for the shipper to find out what it was and whether it was faithfully carried out.

The method of rating mines for the purpose of determining proper distribution of cars was another important factor. "If capacity of mines is to govern in the rating for car distribution, the persons or companies owning the mines should be fairly represented when such a rating is made." The importance of this factor is exemplified by the practice of companies (which own several mines) in utilizing their entire car allotment to alternately run up the capacity of their mines. This is accomplished by the way they distribute their cars to certain mines and shut down others.

The Commission was of the opinion also that the

[1] *Report on Alleged Coal Combination*, 1893, *op. cit.*, p. viii.

ownership by the Pennsylvania and the New York Central Railroads of stock in other roads tended to eliminate competition in rates, although the railroads justified this ownership by pointing to it as "the real cause for the cessation in rebates."

Another important element entering into the situation was the ownership of "individual cars" which made it possible for the large operators to get a greater amount of coal to market and have greater regularity of service. These cars were sold or leased to the individual operator by the railroad, and the owner was allowed a reduction of six mills per mile on freight rates for their use. Since this allowance was insufficient to pay interest on the investment, the amount of coal marketed and regularity of service were the important factors.

Analogous to this abuse of individual cars was the assignment of fuel cars for railroad coal to certain mines or mining companies without counting them in the regular allotment. This practice is "frequently used by the railroad company to enable it to get its coal supply at less than the market price of coal."

To rectify these conditions the Commission recommended that common carriers be required to make public their systems of car distribution. They should be required to publish them at stated periods, show their effect on the different divisions, and, when the supply did not equal the demand, explain how the cars were divided among the mines along the road. If "capacity of mines" were used as the basis of distribution, owners of mines should be represented at the rating thereof. The Commission further recommended that "after [a] reasonable time" individual or private cars should be prohibited, and that carriers or their officers be forbidden to own either directly or indirectly any operated coal properties.[1]

[1] *Report of Interstate Commerce Commission on Discriminations and Monopolies in Coal and Oil*, 1907, p. 81.

These conditions in the bituminous fields and the recommendations for correcting abuses show that we have the same influences, working toward the same results, as have been noted in the anthracite field. Many unique suggestions have been offered for dealing with our coal monopoly. We shall see to what extremes advocates of the common law are willing to go.

B. The Common Law Remedies

Supplementary to the principle permitting the State to compel an owner of purely private real estate to conform to state regulations is the doctrine that the owner of property which has a quasi-public character is further obligated to conform to public needs and policy. This doctrine has received the support of the United States Supreme Court in the case known as Munn *vs.* Illinois, 94 U.S. 113, decided in 1876. In this case a firm owning and operating a grain elevator refused to conform to a state statute requiring grain-elevator owners to take out a license which would insure the faithful performance of their duties as public warehousemen. It was decided that the State had the right to require the owners of property on which the public good depended to conform to regulations necessary for accomplishing this end. Furthermore, this common-law principle of early origin stood in support of any constitutional or statutory provisions. Not only had the State a right to regulate, but also to fix, prices. If there is no statute in existence, and representative people dependent on the public services of the property complain that the owner refuses to give the services which the nature of his public ownership requires, the courts commonly appoint agents or receivers to operate the property and see that all parties are rendered justice.

In 1902, when the railroads were refusing to arbitrate and thus make possible the operation of their properties, one advocate of common-law procedure summed up

his argument and citation of authorities with this statement: —

It follows that since the public have a right in the mines — a right to have coal forthwith mined for immediate consumption — and have a right to have that coal immediately transported out of the mine regions by the coal-carrying roads — a court of equity, if no other solution of the difficulty is open, has the authority to, and, upon the application of a representative portion of the public, undoubtedly would, appoint a receiver or receivers to take into his or their hands the whole business now in the hands of the anthracite coal combine, and to run it in their place. This would be neither nationalism nor socialism, and would introduce no unfamiliar principle of law or of practice, and would not extend one whit the magnitude of the powers heretofore lately exercised by the courts of justice in great enterprises.[1]

But so long as the owners continued to serve the public there would be no remedy from this source. Furthermore, in the matter of combination and restraint of trade the common law operates merely in a negative way. It provides that covenants in restraint of trade are not operative or effective, "but it can do little if all within the combination are satisfied."[2] Then it is that affirmative statutes are needed.

C. The Inadequacy of Decisions based on Laws in Restraint of Trade

a. the recent anthracite decision

Even when we have the affirmative statutes in the form of the Sherman Law and the commodity clause of the Hepburn Act, the extent to which they are prohibitory and really effective in preventing restraint of trade and monopoly control is well exemplified by the results of the commodities case and of the recent decision of the Su-

[1] Chaplin, *The Coal Mines and the Public*, p. 37.
[2] Wyman, *Control of the Market*, p. 138.

preme Court dealing with the anthracite situation. In this latter decision the government attorneys were informed that they had failed to establish the fact that there was any general combination which entered into a pooling arrangement to apportion tonnage. Yet the court took cognizance of the Temple Iron Company, which as a holding company was operating in restraint of trade and was declared illegal. The very antecedents of the holding company,[1] the way it was formed, the percentages of holdings in the company, and the voting trust which it entailed all point to the power to control production, allot tonnage, and fix prices. The court admitted that the thwarting of the projected New York, Wyoming, and Western Railroad, in order to prevent the competition of independents in the market, was an illegal act in restraint of trade and that it was accomplished by the Temple Iron Company as a holding company. But it found no general combination in restraint of trade. Furthermore, "its board of directors, composed as it is of men representing the defendants, supplies time, place, and occasion for the expression of plans or combinations requiring or inviting concert of action. Though as a board it may not dictate the activities of the owning corporations, still, in view of the relation of the Temple Iron Company to the defendant carriers and their respective coal mining companies, and of the constitution of its directors, the attitude of its board, as indicated by the proceedings spread upon the corporate minutes, is of significance upon the question of the existence of any concerted purpose to unite the activities of its corporate owners to suppress competition. There are to be found on the minutes of the Temple Iron Company a number of entries which point strongly to combinations between the defendants. Thus, on June 27, 1899, a committee was appointed to consider the establishment of a statistical bureau 'to keep a record of all matters of interest to the anthracite

[1] We have already described these on pp. 226–227, *ante*.

companies.'"[1] The evidence was sufficient to warrant the dissolution of the Temple Iron Company, but not to establish a general combination in restraint of trade. The court considered it sufficient to break up the combination into its elements, for "each group in the absence of any agreement or combination *possesses the power* to compete with every other in the production, sale, and transportation of coal."[2]

Following the consummation of the Temple Iron Company deal, the independents were given sixty-five per cent contracts in order to mollify them. This meant that they would get sixty-five per cent of the selling price of coal at tidewater, be relieved of the expense of selling agencies, and pay fluctuating freight rates with the varying price in coal. These contracts were declared illegal and void. On what grounds can such a decision be justified as helping either the public by a fall in prices or as aiding the independents in making them freer and able to get better prices for their coal? The usual argument is that it will reëstablish a certain amount of competition. Up to the present, at least, the independent has been practically at the mercy of the carriers as to freight rates, allotment of cars, and discrimination. The railroad can justify freight rates by pointing to the rates they charge their own mining companies, even though they are "robbing Peter to pay Paul." The independents will also be put to the expense of establishing selling agencies, which certainly will not help to reduce the selling price to the consumer. Last, and more important than all, the comparatively small tonnage and control of unmined coal points to one of the elements that make it "seem a little mystifying that President Baer and Attorney-General Wickersham express equal satisfaction with the opinion." The general understand-

[1] *United States* vs. *Reading Company*, 33 Supreme Court Reporter, no. 4, p. 97.

[2] *Ibid.*, p. 93. Italics mine.

ing developed by the Temple Iron Company will continue, and the railroads are quite sure that the independents received enough benefit by their sixty-five per cent contracts, so that they will seek to save themselves trouble and expense by selling the railroads their coal. As for the Attorney-General, he was probably deluded into thinking the decision would accomplish more than it will.

So far as the absorption of the Pennsylvania Coal Company and the New York, Susquehanna, and Western Railroad by the Erie, and the acquisition by the Reading of the majority stock ownership in the Jersey Central is concerned, these deals are still open to action by the Government. However we may look upon the interpretation of the facts, it should be pointed out that the decision does not mean that such a combination did not exist, but that it has not been *proved* to exist. There is hardly need to raise the question of the efficacy of the courts in dealing with the situation.

B. THE "COMMODITIES CASE"

The commodities clause of the Hepburn Act,[1] which prohibits the common carrier from transporting any article or commodity which it has manufactured, mined, or produced, "or which it may own in whole or in part, or in which it may have any interest, direct or indirect," was inoperative in this case for two reasons. Action in the anthracite case was begun in 1907 before the Hepburn Act became effective (May 1, 1908), and on that score the Delaware, Lackawanna, and Western Railroad, whose charter permitted it to engage in mining, was not subject to action in this case. But relief against a continuance of the mining operations can be sought in another proceeding. On the basis of priority of action the other roads

[1] "An Act to regulate commerce," 34 Statutes at Large, 584, chap. 3591.

were also immune in this case, but one may wonder why they are not also subject to proceedings under the commodities clause, since they own and have "an interest, direct or indirect," in subsidiary coal companies. In 1908 a decision [1] was rendered on this same commodities clause which ruled that "the provision of the commodities clause relating to interest, direct or indirect, does not embrace an interest which a carrier may have in a producing corporation as the result of ownership by the carrier of stock in such corporation."

C. UNITED STATES *vs.* LEHIGH VALLEY RAILROAD COMPANY

But the Supreme Court was soon called upon to amplify its decision in the United States *vs.* the Delaware and Hudson Company and interpret still further the meaning it attached to the commodities clause. In fact, the case of the United States *vs.* the Lehigh Valley Railroad Company (1910) [2] is a sequel to the former case decided in 1908. The court had held that the prohibitions of the commodities clause had but a common purpose, to disassociate the "railroad companies prior to transportation from articles or commodities, whether the association resulted from manufacture, mining, production or ownership, or interest, direct or indirect," and these provisions were applicable to a "legal or equitable interest" which could be satisfied by the coal company being a "distinct corporation" from the railroad. "Thus construed," the clause was held to be "within the power of Congress to enact."

The clause, bearing this interpretation, was remanded to the lower court for further proceedings. The Lehigh Valley Coal Company was charged with not being a *bona*

[1] *United States ex rel. The Attorney-General of the United States* vs. *Delaware and Hudson Company*, 213 U.S. 366.

[2] 220 U.S. 257.

fide mining company, but merely a department of the railroad company. Further, the railroad used its stock ownership in the coal company to "buy up all the coal produced by other mining companies in the area tributary to the railroad and fix the price at which such coal was bought." By this means and by the control of transportation facilities it was able to determine prices at seaboard.

The lower court had refused to allow the Government to file an amended bill and had dismissed the suit. The case was appealed to the Supreme Court. In reply to a technical objection of the railroad company, which claimed that the action of the lower court was not susceptible to review, "however germane that amendment may have been . . . because the allowance of amendments to proceedings is discretionary with a trial court . . . unless a gross abuse of discretion was committed," the Supreme Court decided that "an absolute abuse of discretion" had been committed in refusing to allow the amendment.

The railroads had interpreted the former commodities decision to permit unlimited commingling of the affairs of coal and railroad companies, but the court decreed that they must be *bona fide* separate corporations, and insisted that the abuses of "such a situation could not have existed had the fact that the two corporations were separate and distinct legal entities been regarded in the administration of the affairs of the coal company." As it now stands the railroads can continue to be interested in coal companies, provided they keep up the appearance of *bona fide* legal entities.

D. The Lack of Public Policy

If we can learn nothing else from this résumé of recommendations by committees, common-law principles, and court decisions under affirmative statutes on restraint of trade, one fact should stand out plainly — the weakness

and inadequacy of our public policy in dealing with the growing control of such an important commodity as coal. Here we have a natural resource which can be made available to the public only by the use of transportation facilities. The development of the mines and the railroads have necessarily gone hand in hand. Competition, glutted markets, and interruption of traffic early prompted the railroads to seek control of the whole industry. As so many units, the railroads found that they were not in a much better position to regulate the industry than before they acquired ownership of the coal lands. Responding to immutable economic pressure as well as to any desire for monopoly which may be attributed to them, they learned to develop a community of interests in spite of legal obstacles. Their problem has been to curb the individual or company which proposed to carry free competition to extremes, just exactly as the labor union finds it necessary to curb the individual who is willing to work for very low wages. In the mean time the consumer, as long as he got his coal at a price somewhere within proportion to the prevailing régime of prices, paid what he had to pay, and grumbled. The level of monopoly prices would have been higher than it is had we been dependent solely on the effectiveness of our public policy. The competition from bituminous coal and the limits set by the possibility of substitution and by ability to consume have been the only regulatory factors of the anthracite monopoly.

With the rise of a labor organization and a system of conciliation and arbitration which will extend itself over the whole coal industry, it becomes a matter of vital concern to the public that the prices charged for coal shall give a just recompense to both labor and capital and at the same time not reach an extortionate level. In this connection one naturally wonders why the administrative and regulatory powers of Government, through the activities of the Interstate Commerce Commission and other

commissions, have not evolved to a point which would permit more effective governmental protection of consumers. To understand this we have but to turn to a consideration of the factors which have prevented the Interstate Commerce Commission from adequately regulating interstate commerce through the adjustment of "reasonable" freight rates. Then we shall understand why further extension of regulatory powers which would permit a commission to deal with the more difficult problem of concentrated ownership of coal lands and railroads and the adjustment of freight rates and prices of coal has not taken place.

E. The Work of the Interstate Commerce Commission

a. coxe brothers case

Until recently the Interstate Commerce Commission has been greatly handicapped in its work. In its first attempt to deal with anthracite rates it learned that where railroads own mining companies the only regulation practicable is the requirement making rates reasonable. In 1888, Coxe Brothers and Company brought action against the Lehigh Valley Railroad for charging unreasonable rates. After an investigation in which the other railroads refused to avail themselves "of the liberty to appear and join in the defense," the Commission established rates varying from $1.05 to $1.50 per ton, according to the sizes of coal. The Lehigh refused to conform to the rates, and when haled into court by the Commission denied that it had violated any provision of the act regulating commerce or that its rates were unreasonable. Furthermore, if the act permitted the Commission to set up what it regarded as reasonable rates, the company held it to be unconstitutional because it interfered "with the common-law rights of common carriers" and violated the companies' charter rights

which permitted a charge of three cents per ton per mile for "tolls" and "transportation."[1]

The case was brought before the Circuit Court of the Eastern District of Pennsylvania in 1891, but the decision was not handed down till 1896. In the mean time the attempted merger in 1892–93 had taken place, and the Commission says rather bitterly that the interests of the complainants were probably "better served by the present high prices enforced through the 'combine' than they would be by the lower transportation rates" which were ordered for the public good.[2] In 1896 the court informed the Commission that it declined to enforce its orders in the matter of freight rates because of "an erroneous estimate of cost to the company" and the inability of the Commission to "itself fix rates." The estimate of cost by the Commission had been "made upon the company's report of earnings and expenses on coal transportation and was somewhat lower than an estimate stated by counsel for the carrier."

The case was appealed, but in 1897 the Supreme Court decision on the Freight Bureau Cases,[3] which denied the authority of the Commission to require carriers not to exceed charges found reasonable and just, caused the Commission to drop the case. The Commission had expected that the courts would compel obedience to the orders of the Commission "unless the record of the investigation which resulted in that order disclosed some plain error of fact or conclusion sufficient to justify the court in refusing to take such action."

After the Commission had made its investigation, issued its orders, and appealed to the court to enforce them, it was often found that the carrier had withheld evidence, and the courts were required to pass on evidence very different from that submitted to the Commission.

[1] *Report of Interstate Commerce Commission*, 1891, p. 288.
[2] *Ibid.*, 1892, p. 27.
[3] 167 U.S. 479.

The Commission summed up the conditions thus: —

> The special weakness of the law as it now stands is the want of finality and binding force to the decisions of the Commission though made upon facts ascertained after notice to the carriers and full opportunity for all interested parties to be heard. The absence of any conclusive character to our determinations deprives them of the weight and vigor which they ought to possess, and prevents the exercise of that authority which is essential to effective regulation.[1]

B. THE BAIRD CASE

The next case worthy of note that arose in the anthracite field was the result of a complaint concerning legality of rates brought by William R. Hearst in 1903 against the Reading and other railroads. During the investigation David S. Baird, Secretary of the Lehigh Valley Coal Company, refused to produce the contracts entered into between the company and independent producers. The officials of the other coal and railroad companies also refused to produce similar contracts. These contracts had been entered into after January 1, 1901, and are now popularly known as the "sixty-five per cent contracts." Information regarding the fixing of prices of coal at tidewater, the cost of producing coal, and the items entering into company reports under the heading "general expenses" was also refused.

The Commission brought action in the United States Circuit Court of the Southern District of New York to compel the parties[2] to answer questions and produce information. The court compelled the president of the Lackawanna to answer the specific question regarding the items under general expenses, "inasmuch as the documents containing that item were in evidence before the Commission." But the court held that the other information

[1] *Report of Interstate Commerce Commission*, 1895, p. 11.

[2] *Interstate Commerce Commission* vs. *Baird et al.*, 194 U.S. 25.

asked and the contracts called for were not relevant to the question of reasonable rates. The Commission believed that this evidence had direct bearing upon reasonable rates, whether or not there were discriminating charges and whether or not the fixing of tidewater prices was in violation of the anti-pooling section of the act to regulate commerce.

The case was appealed to the Supreme Court, which reversed the decision of the lower court. The railroads tried to have the appeal dismissed on a technicality and "insisted that the language of the proviso [in the Elkins Act of 1903 providing for the expediting of cases] applied only to cases in equity, and did not include those of the character of an action to compel the production of books and papers and the giving of testimony by witnesses called before the Commission." But the court refused to interpret the proviso narrowly, and took into consideration other sections of the act which permitted the Commission to inquire into the management of the business of all common carriers and keep itself informed "as to the manner and method in which the same is conducted, with the right to obtain from such common carriers full and complete information necessary to enable the Commission to perform its duties and carry out the objects for which it was created."[1]

This decision was handed down in 1904, but it was not till March 8, 1906, that it was reopened for argument. It was reargued on March 29, 1906, "and since that time the case has been placed on the suspense calendar."[2] Whether or not this action was encouraged by the expected passage of the Hepburn Act of 1906, which gave the Commission enlarged powers, or the expected governmental prosecution of the roads under the Sherman Law (begun in 1907), we can only conjecture. At any rate, the

[1] *Report of Interstate Commerce Commission*, 1904, p. 33.
[2] Official correspondence.

courts monopolized the field of action from 1907 to 1912 with very ineffective results.

C. THE POWER TO FIX MAXIMUM RATES

The Hepburn Act gave the Commission power to fix maximum rates, and this function was upheld by the Circuit Court of the Eastern District of Pennsylvania in 1909.[1] The decision also supported the Commission's contention that since the passage of the Hepburn Act the courts have no right to review or set aside its orders "in so far as they involved the exercise of discretion or judgment," but that "the courts might inquire whether the formalities required by the statute had been complied with; whether a proper complaint had been presented, a full hearing had, an order made in due form and properly served upon the defendant; but if these formalities had been followed, then the order of the Commission could only be attacked upon the ground that it violated some constitutional right of the defendants."

D. THE COMMISSION HANDICAPPED BY THE COURTS

The powers now secured are those that the Commission has needed all the time. Without them its efforts to function as it was intended to have been handicapped on every side. The courts have been concerned about technicalities and have quibbled over minor matters to the exclusion of important ones. This is well exemplified in the Chesapeake and Ohio coal case, in which the Chesapeake and Ohio Railroad was restrained from granting discriminatory rates to the New York, New Haven, and Hartford Railroad Company, but "the court declined, however, to enjoin the Chesapeake and Ohio from further departing from its tariff rates in the transportation of coal or of interstate traffic generally, and that was, of course, the object of the preceding commission."[2]

[1] *Report of Interstate Commerce Commission*, 1909, p. 29.
[2] *Ibid.*, 1904, p. 78.

F. The Need for an Accounting System

In fact, before the Commission can really get at the rate problem, where railroads own the coal mines, it will be necessary to make a thorough investigation of the costs of mining. In spite of the varying conditions in mining and the great differences in productivity between fields, an effective system of obtaining costs is possible. That it can be accomplished is demonstrated by the results of work done in the mining industry of Germany.[1]

The work done by the Department of Commerce and Labor in 1913 in investigating costs and prices of anthracite coal is a good beginning. One of the first difficulties the bureau which had charge of this investigation encountered was the "widely different methods of accounting." Thus a policy of regulation would involve a uniform system of accounting in mining similar to the requirements placed upon the railroads by the Interstate Commerce Commission.

In spite of this handicap the bureau obtained information from the records of "railroad interests" which own their own mines or are affiliated through holding companies and produce seventy-five per cent of the anthracite coal.[2] The information given was checked against the books of the companies or their published records by certified public accountants, and no discrepancies were found except in the case of one company whose records were not included in the report of the bureau. Other information was obtained from annual reports, "sworn statements introduced in judicial hearings," and by "personal visits of agents of the bureau to the retailers of the cities covered by the investigation."

The bureau was able to arrive at a figure which repre-

[1] Walker, *Monopolistic Combinations in the German Coal Industry*. Publications of American Economic Association, 3d series, vol. 5, pp. 145–59.

[2] Increase in Prices of Anthracite Coal, *op. cit.*, p. 10.

sented at least the maximum increase in labor cost per ton (9.75 cents), operating costs, fixed charges, and the extent of depletion funds which, compounded at four per cent for forty years, would repay the companies for the actual costs of their coal lands. The causes which tend to increase and decrease cost of production can also be ascertained, and computations can be made which will allow for both influences.

In this investigation the benefit of the doubt would seem to have been given the companies in every instance, and yet the Government was able to show the disproportionate share that capital was getting out of the increased charges. Furthermore, we must remember that this estimate of $13,450,000 increase is a minimum, for ability to sell coal at "premiums" for quick delivery during periods of shortage makes a substantial addition. Out of this increase the operators had to pay the $4,000,000 increase in wages and the expenses attached to the six weeks' suspension of mine operation. Since the market can be supplied by operating the mines about 225 days during the year, the charge for six weeks' suspension reduces itself to expenses attached to keeping the mines free from water and deterioration of working equipment.

If the Government used its powers to require effective publicity, it ought not to have to go to the extent of actually fixing prices. But to make publicity effective it must require a uniform system of accounting, separate accounting for the mining industry, physical valuation of mining equipment, and other regulations which will enable it to arrive at a fair approximation of the cost of mining a ton of coal. The public should have this information from an authoritative source along with the earnings of mining companies and railroad companies combined. The Interstate Commerce Commission should possess such information as would enable it to adjust railroad rates on coal in relation purely to the cost of transportation. This

information should be in the hands of labor and capital when they meet for collective bargaining, and it would be a powerful factor in preventing arbitrary action on the part of either party.

These recommendations are particularly applicable to the anthracite region, and are suggested by the thought that it will be impossible to undo the work of concentration of ownership which has taken place or to counteract the impelling economic factors which have forced the coöperation necessary to put the industry on a profitable basis.

G. The Work of Concentrated Capital

We cannot neglect the actual services which combination and concentration of capital have rendered in the coal industry. It is estimated that the large aggregation of capital has reduced the waste of coal from one and a half tons to one-half ton for every ton mined,[1] by making it possible to use better methods and equipment in mining. As it has been necessary to penetrate the earth more deeply, a greater amount of capital has been required to open mines. When such mines are opened there is a greater cost connected with keeping them open. A greater amount of refuse has to be hoisted and a greater amount of water pumped. The concentrated ownership of many collieries has made it possible to shut down the expensive mines and keep the profitable mines running more constantly. The better systematization and regularity of transportation that comes with large equipment and general control has enabled the common carrier to move freight much more cheaply, regardless of whether or not the public has profited by this in the reduction of anthracite coal rates. A similar saving is accomplished by the reduction

[1] Mitchell, "Our Coal Supply Today," *Review of Reviews*, vol. 41, pp. 193–204. Mr. Mitchell is Secretary to the Director of the U.S. Geological Survey.

and concentration of selling agencies. That centralized control is necessary to keep the markets and the industry healthy is recognized by capital and labor and by the economists who have made a study of the industry. That the public did not profit sufficiently by the good results of concentrated ownership and unified policy, and that labor did not enter into its own until it enforced collective bargaining, does not disprove the beneficial features which have gone hand in hand with this development. It rests with constructive public policy to see that the public participates in the fruits of control and organization.

H. The Operators ask for a Commission

In the bituminous field, although the process of combination is progressing fast, competition is still the controlling factor. The field is too vast and varied and the individual operators and companies too many for one to expect that a gentlemen's agreement could fix the price of coal in spite of legal restraints. But we hear certain operators in both the central field and in West Virginia frankly advocate the inauguration of a commission which shall have the power to say whether the prices fixed by the operators are reasonable.[1] They are undoubtedly impelled by other motives than would move those who advocate regulation for the anthracite field. The competitive race between fields in the bituminous regions and the crowding to the wall of the smaller men by the large combinations of capital make certain ones cry out for some degree of protection. If their cry is not heard it may not be long before the necessity for regulation will be for the sake of the public, as it is in the anthracite field. At any rate, the same policy of effective publicity as applied to the anthracite field would not be a detriment to the public. In fact, the same necessity for authoritative

[1] *Report of Joint Conference of Central Field*, 1912, p. 331; also *Report of Senate Committee Hearings in West Virginia, op. cit.*, part 2, p. 1664.

information is present, both from the standpoint of the public and for purposes of collective bargaining. With greater unity among the laborers and greater combination of the capitalists, we shall approach deadlocks over fundamental questions just as the English did over the minimum wage. In England we have seen that the miners took the initiative in determining whether the coal industry was able to pay a minimum wage that would put the loss, which came to the individual miner from working in abnormal places, upon the industry as a whole. Conclusions which are based upon a thorough and authoritative system of investigation and publicity will result in greater justice to both labor and capital and give the public a safe basis for placing the force of its sympathy with the party which is in the right. The general benefits to the public that come from actual and potential competition will be just as great, and by publicity and regulatory measures the evils and abuses of "cut-throat" competition may be thwarted or corrected.

Under the conditions which exist in the bituminous field the operators who ask for a commission to regulate prices cannot expect by this means to be relieved entirely of competition. A commission which fixed maximum prices might protect the public from extortion, but it would have to fix and enforce minimum prices in order to protect the operators in the fields which are producing under the most adverse circumstances. In connection with the fixing of maximum prices the commission would have the coöperation of the public because nobody is going to pay more for coal than he has to; but with the attempt to fix minimum prices there would be every incentive for consumers to connive with the producer who wished to sell his product lower than the minimum in order to gain the market.

Unless the minimum prices could be enforced, the independent operators would still be subjected to the baneful competition of concentrated capital. Besides our policy

of effective publicity we must inaugurate measures that will leave room for healthy competition and yet rob the powerful operator or company of the ability to exploit labor, utilize cut-throat competition against the independent, or entirely absorb his holdings. The cheaper the railroad and guerrilla operators in West Virginia and Pennsylvania get their labor, the greater will be their profits, and the more effective the power which they will possess to continue their labor exploitation, force the independent to the wall, and create social and political problems.

I. Regulatory Measures

The growth of the industry in the bituminous field may require capital to concentrate to obtain the greatest efficiency; nevertheless, there are certain fundamental conditions in the industry which can be established by legal enactment and which will put the large and the small operator on an equal footing to a certain extent. Then evolution in the industry may take its course, work more slowly, and entail less hardship.

The advocacy of effective publicity and regulation presupposes that the industry is to be regarded from a national standpoint. The same is true of the measures which follow. Perhaps the reader is immediately struck with all the difficulties of constitutionality, of judicial interpretation, and of obtaining legislative enactment that eternally rise before the minds of Americans when they attempt to approach new problems. Let us grant that they are ever present, still we shall never get very far toward a solution of problems so long as we can see nothing but difficulties. Besides, there are new forces at work in our industrial, political, and social life which will make old things new and compel us to exert ourselves to keep up with progress rather than spend our energies lamenting inaction.

A. THE EIGHT-HOUR DAY

First among the measures of a general regulatory nature is the legal eight-hour day. This would be one of the most effective regulations with which to bring up the level of working conditions and competition between the organized and unorganized fields. The unorganized fields would then have to inaugurate the eight-hour day. In this respect we should simply be following the line of evolution which has been found necessary in England. We remember that the British miners were unable to obtain such a regulation by conciliatory means. Nor have the American miners met with better success in our richest bituminous field where large concentration of mining and railroad capital has fought it. Furthermore, since our United States Supreme Court in the case of Holden *vs.* Hardy (169 U.S. 366) has shown itself liberal enough to uphold a state law providing for an eight-hour day, we may expect that our evolution in this respect will not be such a remote possibility.

B. A LEGAL TON

Analogous to the eight-hour day in its effects would be a national regulation and enforcement of a legal and uniform ton. The miner, even though an unorganized worker, should not be subjected to an abuse which permits an employer to regard considerably over 3000 pounds as a ton when he is paying his workmen and consider 2240 pounds as a ton when he sells his coal. National legislation should be able to excel state legislation by the elimination of provisos or "jokers" which make the effectiveness of the act dependent upon the agreement of the employer and employees, for in unorganized fields there can be no fair agreement.

C. REGULATION OF IMMIGRATION

We must take more effective measures than we have taken as yet to stop the manifestly untrammeled exploitation of labor made possible by our lax immigration policy and the use of arbitrary and barbarous practices to defeat collective bargaining. While capital has had protection by the tariff, labor has been compelled to compete with southern European peoples in wages and standard of living. As a result of this the unions have been disrupted, bargaining power has been destroyed, and the homogeneity and cohesion necessary for sane development through collective action is absent. The system of armed guards and peonage shown in the recent West Virginia troubles and the control of judicial and administrative machinery in Westmoreland County, Pennsylvania, during the strike of 1911, point to the extremes we may expect when concentrated capital is given unlimited opportunity to control natural resources and exploit ignorant labor.

D. THE MINIMUM WAGE

A minimum wage equal to the wage paid in the organized districts would greatly supplement a policy of effective restriction of immigration. It certainly would reduce the incentive the employer has to cast off his old workmen inconsiderately when he knows he has a ready supply of men with which to break strikes and carry on indefinitely a series of exploitations until the workmen rise in discontent. If capital in the fields which are unionized can afford to pay the higher wages which go with collective bargaining, the operators in the richer and unorganized fields of West Virginia and Pennsylvania not only can afford to pay a minimum wage equal to the wages in the organized districts, but they should be forced to pay it. Even then their superior natural resources and concentration of capital would give them sufficient advantage in competition.

In an attempt to equalize competition between coal fields (or States), differences in rates of wages are made to offset the difference in distance from the market and the attending extra expense in getting coal to market. But as between two mines within the same field, an attempt is made to equalize wages by paying higher rates in the thin-vein mines than in thick veins where working conditions are easier. Thus the operator with the richest mine profits by his superior natural resources and is in a more advantageous position competitively than the operator with a thin-vein mine. These same principles should stand in dealing with the "West Virginia problem," but the differential which the field should have as compared with the other fields ought to be proportionately smaller because of its superior natural advantages. In such an adjustment a minimum wage and a compulsory eight-hour day would be other elements which could be utilized in connection with a proper regulation of freight rates so as to reduce destructive competition from the unorganized fields. The minimum wage may be considered a measure of last resort, though it may not be more difficult to inaugurate than the other measures advocated after constitutional and legislative difficulties have been surmounted.

J. Possible Rise and Influence of a Labor Party

Although attainment of such regulatory measures may seem impossible, beginnings have already been made which will aid adjustments of this kind and lead us along the same line of development that has taken place in Great Britain. We must remember that of some years we have been electing labor men to Congress and the state legislatures, who, although they nominally ran as Democrats or Republicans, would undoubtedly stand for labor on questions which would vitally affect its welfare. The Labor party in Great Britain passed through this same stage of development. With the increase of economic pressure and

inability to make the existing political machinery responsive enough, new means necessarily develop by which the rising discontent can find expression through peaceful adjustment.

We now have fourteen labor men in the House of Representatives and one in the United States Senate. These men represent twelve different unions. Besides, we have a labor man in the Cabinet, and this may well be considered quite as significant of a new era as the entrance of John Burns into the British Cabinet. These men are, of course, among the most conservative in regard to any measures which would encourage the development of class struggle, but we may expect to find them on the side of those who see the necessity for making our political machinery more responsive to changing industrial and social needs. Furthermore, since we have hardly begun our social legislation, with the advent of definite issues we may expect party adjustments on new lines.

The same economic pressure which has brought the formation of a Labor party in France, Germany, and England, has already found expression in the form of resolutions for a similar party in the United States. At the annual convention of the American Federation of Labor in November, 1913, the following resolution was submitted to the Committee on Resolutions: —

Resolved, That the president of the American Federation of Labor select nine members of the Thirty-third Annual Convention, with cards of their respective unions in good standing, to draft a political platform to be known as the platform of the American Labor Party, such platform to be adopted by this convention.

Another more extended resolution with the same purport contained a provision for submitting the proposition to a vote of the rank and file of labor unionists. The committee on resolutions was of the opinion that the time was

not ripe for a "distinct labor political party," but that with further maturity in political activity a "new political party [would] be the logical result." In the mean time they felt that labor should be more fully organized and that the Federation should maintain its "non-partisan political position."[1] The recommendations of the committee were sustained, but during the course of the debate it was fully brought out "that it was useless to organize industrially without a strong political organization back of the industrial organizations, and that it was useless to secure labor legislation unless there was a strong industrial organization to see that it was enforced."

Although it is evident by a vote of 193 to 15 that the conservative element was in the saddle, the radicals may prove to have the keener sense of the real attitude of the rank and file at present. In January, 1914, the United Mine Workers' Convention passed resolutions favoring the formation of a labor party and government ownership of all public utilities, especially of coal mines. Even though the resolutions contained no preparations for a new party, the formal expression of intention is significant. If the United States Supreme Court should decide, in connection with the Danbury Hatters' Case, that trade-union funds are open to attack under the Sherman Anti-Trust Law, events may move faster than we anticipate, in quite the same way as they did in England. Not less significant is the resolution in respect to the nationalization of mines, especially so since two United States Senators[2] have advocated a similar policy as the solution of labor problems in the mining industry.

All this, it would seem, is indicative that we are entering upon an era of new adjustments which would make

[1] *Report of Annual Convention of the American Federation of Labor*, November, 1913, p. 315.

[2] *Report of Senate Committee on the Investigation of the Paint Creek Coal Fields of West Virginia*, pp. 19 and 21.

effective publicity and regulation, an eight-hour law, and a minimum wage less remote possibilities. With the development of greater homogeneity and common sympathy among our manual workers there must come the development of a new elasticity in our constitutional, political, and governmental machinery that will allow the masses to give voice to their needs and permit the accomplishment of certain ends which can be gained only through legal enactment. Furthermore, the Government must function more readily when voluntary conciliation and arbitration have failed to function. This leads us to a consideration of the rôle the Government should play in a situation like the anthracite strike of 1902, or of a general coal strike which may come with the simultaneous expiration of contracts in both the anthracite and bituminous fields in 1916.

2. RELATIONSHIP BETWEEN A CONCILIATORY SYSTEM, THE SUPPLY OF COAL, AND GOVERNMENTAL ACTION

Although the United States Government showed itself impotent in dealing with the serious anthracite strike of 1902, and in spite of the fact that the "suspensions" which have taken place during the formation of a new agreement could easily have developed into a protracted struggle, we still have no legal provision which would enable the Government to function more effectively on such a momentous occasion. That the Government could use its good offices at such times without interfering with a system of conciliation and arbitration or taking away the laborer's right to strike or the employer's right to lock out, is demonstrated for us by the Canadian Industrial Disputes Investigation Act. By such an act we can give the force of public opinion a thorough trial and exert a most salutary educational influence on capital, labor, and the public. To be an effective educational influence the

measure should insure authoritative information. With this placed before them the people should be able to render a verdict on the immediate struggle. But a still greater asset is the leaven within the measure for the encouragement of further evolution of public policy.

A. The Canadian Industrial Disputes Act

(1) *Application for a board*

When industrial disputes have developed to a point where trouble is imminent, either party to the dispute may make application to the Minister of Labour asking him to appoint a board of conciliation and investigation. The written application sets forth the nature and cause of the trouble, the demands made by the parties, the number of persons involved, and the efforts made to adjust the dispute. The party making the application transmits a copy to the opposing party. At least ten employees must be affected by the dispute if the application is to receive consideration. These provisions could be adapted so that a voluntary system of conciliation for the formation of contracts and the adjustment of disputes thereunder would not be interfered with. By refusing to grant an application for a board except when one of the parties arbitrarily refuses to meet the opposing party, plenty of free play could be given all voluntary conciliatory systems. But it is when either party is arbitrary that the Government can use its power most effectively to force publicity.

(2) *Composition of the board*

A board consists of three members, and they are appointed by the Minister of Labour from the recommendations of the contending parties. Each party recommends its representative and these two recommend a third. If either party tries to block proceedings by neglecting or refusing to appoint a representative, the Minister of Labour

selects a suitable person to fill the place. The third party selected by the representatives is the chairman of the board. The members of the board are not to have any pecuniary interest in the dispute and are bound by an oath to secrecy and faithful performance of their duties. The remuneration received by each member of the board is twenty dollars per day for each day the board sits and for each day they are necessarily engaged in traveling. Besides this, their traveling expenses are paid.

(3) *Conciliation, investigation, and publicity*

The primary function of the board is to bring the parties together and induce them to come to a fair and amicable settlement. In cases where a settlement is not reached, the board makes a report to the Minister of Labour which "sets forth the various proceedings and steps taken by the Board for the purpose of fully and carefully ascertaining all the facts and circumstances, and shall set forth such facts and circumstances, and its findings therefrom, including the cause of the dispute and the Board's recommendation for the settlement of the dispute according to the merits and substantial justice of the case."[1] This report shall avoid "as far as possible all technicalities" and set forth "what in the Board's opinion ought or ought not to be done by the respective parties concerned." The Minister of Labour files the report, sends copies of it to the parties, the newspapers, and "may distribute copies of the report, and of any minority report, in such a manner as to him seems most desirable as a means of securing a compliance with the Board's recommendation."

(4) *Powers of the board*

To make the report as effective and authoritative as possible the board has the power to summon witnesses and compel testimony and the production of documents. The

[1] Industrial Disputes Investigation Act, section 25.

board is allowed clerical assistance and may employ experts to whom it may delegate its powers. These experts may inspect and interrogate, and any person who hinders them is guilty of an offense and liable to a penalty of $100. But the information obtained from documents "shall not, except in so far as the Board deems it expedient, be made public, and such parts of the books, papers, or other documents as in the opinion of the Board do not relate to the matter at issue may be sealed up."

The proceedings of the board are public, unless otherwise ordered, and "No proceeding . . . shall be deemed invalid by reason of any defect of form or technical irregularity." All expenses, including payment of witnesses, experts and salaries, are borne by the State.

(5) *Penalties for strikes and lockouts during investigation*

The investigation begins before a strike or lockout has taken place, and the relation of the parties must remain unchanged during the proceedings of the board. The employer is liable to a fine of from $100 to $1000 per day for each day of a lockout, and the workman to a fine of from $10 to $50 per day for striking. Furthermore, a person who incites or encourages the parties to declare a lockout or continue a strike is liable to a fine of from $50 to $1000. These penalties are enforced under the criminal code.

After the investigation has been made and the report made known, either party may refuse to accept the recommendations, and declare hostilities. The chief purpose of the act is to discourage strikes and lockouts, relieve the public of the trouble and suffering that result from unwarranted acts by either party, and to inform the people on how just grounds they are deprived of a service or a commodity.

(6) *Results from the act*

That the act has been worth while is shown by the results obtained under it during the five years it has been in operation. Out of the 124 cases of dispute, in only 14 have the parties refused to accept the recommendation of the board and declared hostilities. In 8 out of the 14 cases the parties finally resumed work on the basis recommended by the board. In 4 of the remaining cases settlement was brought about through negotiation and intervention of a citizens' committee and government agents. Two cases remained unsettled at the time of the last report.[1]

This act presupposes the right of the men to organize, and their right of recognition and representation. An investigations act in this country would have to incorporate these rights, for they are far from recognized rights among a large class of employers. If we had such an act as this the public would be able to find out whether in a situation like the Westmoreland County strike and the West Virginia troubles the operators had "nothing to arbitrate." It is a sad reflection on our public policy that we allow the barbarous methods of force to continue in industry. We have learned in civil matters that it is conducive to peace and justice to compel parties to settle their differences in court. The same principle operates in industrial matters where it has been tried.

There would seem to be no right of either party denied in this act except that of a sudden strike or lockout. With the development of voluntary conciliation and the appointing of stated times for changes in wage contracts, such tactics ought not to be used as were used in the days when there was little understanding between the parties and when they sought to take quick advantage of each other. If we can accept the evolution in feeling in the

[1] *Report of Canadian Registrar of Boards of Conciliation and Investigation*, 1912, p. 12.

coal industry of Great Britain as any criterion, we might expect the Government to be looked upon simply as a willing intermediary. It would stand ready to function in case of a crisis which had driven the parties so far asunder that the occasion required the overwhelming force of public sentiment to decide which party was in the right, after a fair and impartial investigation. Moreover, the mere existence of a remedy would lessen the tendency to drift so far apart as to necessitate public action.

B. Conclusion

In conclusion we should recall the economic and industrial conditions which brought about the rise and extension of the system of conciliation and arbitration in the bituminous field. The elaborate machinery of the interstate joint conference, state conferences, and the arrangements for settling disputes that arise under agreements are only made possible by the effective organization of the United Mine Workers and the operators' associations.

It is evident that the methods utilized in the bituminous field have reached a very high stage of development. When it was once recognized that the old order had changed and that labor had the right of representation in adjusting its affairs, the parties were ready for collective bargaining. But we have seen that a realization of this came only after much strife and bitterness of feeling. As an industry develops to a stage where it is possible by ill-adjusted production and exploitation to reduce the level of wages and profits to a bare subsistence for labor and small earnings for capital, the rise of a workers' organization to better these conditions must be expected. When this occurs, the employers should organize to meet the workers, and the result should be an adjustment of production and of working conditions making both for higher industrial efficiency and greater regard for the interests of the workers.

When trade agreements are first inaugurated, the parties must not expect that everything will run smoothly at once. It requires a certain amount of experience and education to use this piece of social machinery, just as training is necessary to the efficient utilization of a new mechanical device. The important thing is to profit as much as possible by the experience gained in industries in which an elaborate system of conciliation has slowly evolved. Authorities who have investigated the workings of peaceful adjustment in various industries are convinced that the highest types of conciliatory methods are those which furnish a series of opportunities for arriving at a settlement. Such a system requires officials from both sides who have a wide outlook upon the industry as a whole to give consideration to fundamental and deep-seated grievances. When the same honest effort is made to solve the labor problem that is commonly expended on the selling of products or the improvement of methods of production, we shall be on the highroad to a solution of our difficulties.

Moreover, we have seen that collective bargaining softens class antagonism and encourages friendly relations between employers and workers, while at the same time each party becomes aware of the difficulties with which the other has to contend. The employers have shown a willingness to democratize their industry, and the workers, as their power has increased, have demonstrated a sense of larger responsibility to the public.

Those who are afraid that they will surrender some of their prerogatives, and because of their fear fail to see the opportunity for utilizing the coöperative force of rising intelligence, are in reality a hindrance to themselves and to society. Rising intelligence and increasing efficiency properly directed should bring greater prosperity to wage-worker and to capitalist alike. It goes without saying that at least approximate justice must be granted in order to

bring coöperation and good feeling. Whenever capital is ready to demonstrate by authenticated figures its desire to do justice, it lays the basis for a coöperative spirit on the part of labor, and one cause of suspicion is eradicated. If the worker could possess a confidence (born of past experience) that the employer was giving him all the wages possible without depriving himself of a legitimate profit, he might be expected patiently to await the evolution of his standard of living and strive to build up the industry to the best of his ability, just as the employer works and waits for the growth of his industry. A system of conciliation founded on authentic figures should bring such a result. As yet conciliation has not been put on a frank business basis, but is still in the barter stage. It should be supplemented by an efficient system of accounting that will enable labor and its representatives to know the exact status of the industry.

In the anthracite field we have gained some conception of the disrupting factors which have deferred the development of a satisfactory system of industrial adjustment. There conciliation is just making a beginning. The large corporate ownership and the heterogeneous population may prove such powerful and disintegrating factors that organized labor will be unable to deal adequately with the situation. It certainly could not if the movement were solely dependent upon the small band of faithful unionists in the anthracite field. But the support and encouragement which they receive from the unionists in the bituminous fields enable them to array a sufficient fighting force at the termination of contracts to compel the operators to give some consideration to their demands. Before they can have effective conciliation and settle wages on an equitable basis the anthracite miners should be in a position to know the costs of producing coal and the extent of the operators' earnings.

An authoritative cost and accounting system is also of

vital concern to the public in permitting an understanding of the justice of the rise in prices of coal. The additional profits of $9,450,000 which the operators obtained after the last wage agreement has led the public to think that strikes may develop into a profitable business.

The ability to control prices brings a frank statement from some quarters that the only solution of the problem is government ownership. The Boston "Journal" says: "In the climax of hopelessness and measure of futility against the outrage, it writes down the plainest demand for government ownership of coal mines which has been made. If the great coal interest is so intrenched that it can violate with impunity a principle supposed to be written into the federal statutes, the need for government ownership becomes exigent and imperative."

If a combined demand is made by the miners and the public for government ownership, we shall be plunged into the midst of a struggle for which the workers in the anthracite region have received no adequate preparation either in peaceful adjustment or in attempts to ameliorate their condition through legal enactment. Over against this situation the experience of the British miners stands in striking contrast, and thoroughly illustrates the folly of a system of government and social adjustment which permits grievances to accumulate without providing effective devices by which they can be adjusted. If the anthracite workers were a homogeneous population which had come through a process of evolution in conciliatory adjustment and had had practice in redressing their grievances through legal enactment, the situation could be viewed in a different light.

We should remember that we have a situation before us likely to prove more conducive to class struggle than if our constitutional system were less rigid and permitted us to deal with our problems on a national basis when they demand such treatment. Moreover, if the miners felt that

they could go to Congress with the same assurance which the British miner has in approaching Parliament to obtain an eight-hour day or a minimum wage (which could not be obtained by conciliation), and there present by legitimate argument and persuasion the necessity for ameliorative measures, the whole industrial situation would have a different outlook.

In contrast to British affairs it is with great difficulty that labor in the United States can obtain betterment of conditions through congressional action, and when a law is once enacted, it may easily be quashed as it runs the gauntlet of the courts. Nor can the American miner turn again to Congress and obtain an enactment that will supersede the court decision with the same facility that an act of parliament overrides British court decisions. This contrast is well illustrated by the readiness with which the attempt to tie up union funds and cut off parliamentary representation of labor was thwarted by bringing about government payment of parliamentary members.

Again, we have seen that the British miner has taken a first step toward an investigation of wages and profits in the coal trade. This will probably lead to a demand for an efficient governmental system of accounting which will ultimately redound to the benefit of the miners, the operators, and the public.

We are beginning to recognize that such matters as hours of labor, sanitary and safe working conditions, child labor, workmen's compensation, old-age pensions, and occupational diseases are proper matters for state regulation. When we consider the magnitude of the trade-union problem of limiting the hours of labor in the many States of our Union, we are struck with the manifest unfairness of leaving the task to them. "If the objects of trade unions could find quiet and orderly expression in legislation and enactment, and if their measures could be submitted to the examination and judgment of the whole [people] with-

out a sense of division or warfare, we should have ideal development of the democratic state." [1]

The preoccupation of legislatures and courts with the enactment and enforcement of laws that primarily pertain to property rights as opposed to other human rights has been alienating the mass of workers from that sense of patriotic citizenship which is so essential to a republic. The speed with which governmental functions are applied to thwart labor's attempts to obtain rights through collective action is bitterly contrasted with the slowness with which the Government acts in upholding laws that are intended to improve the conditions of labor.

The workingman sees the club of the officer, the bayonet of the militia directed against him in defense of property, and he believes that the hand of the law, strong in the protection of property, often drops listless whenever measures are proposed to lighten labor's heavy burden. Occasional and imperfect expressions of the underlying feeling reach the surface. Those who dismiss them as sporadic assaults upon the judiciary have no appreciation of the depth and breadth of the social situation. There is profound restlessness among large groups of labor who feel that there are no organic ways open through which they can act collectively with respect to the things that most concern them . . . that they are thwarted when they get together for common strength and when, not as mutual benefit societies, but as aggregations of men they set out to mind their business. . . . We hold that the criminal court is not a sufficient instrument through which the democracy can address itself to the economic struggle. The federal grand juries may well concern themselves with those who have carried dynamite across state boundaries. We want light along a more crucial boundary line — the borderland between industry and democracy. We want light on that larger lawlessness which is beyond the view of the criminal court. This is a matter of public defense in which we, as a people, should if necessary invest as much money as we put into a battleship. We appeal to the Federal Government to create a

[1] Jane Addams, *American Journal of Sociology*, vol. 4, p. 459.

commission, with as great scientific competence, staff resources, and power to compel testimony as the Interstate Commerce Commission.[1]

This address, signed by people from many walks in life, is a protest against a public policy which allows conditions to exist in industry that encourage violence. Whether it comes as a result of the employers' attempts to "smash" the union, as in the McNamara case, or the sporadic uprising of a disorganized mass in protest against grinding economic necessity, as in the Lawrence strike, matters little in its jeopardizing effect upon society. The essential thing is to have enough interest in the facts of the case to encourage the development of devices which shall keep the public sufficiently informed to enable it to take action and bring about adjustments for the prevention of similar occurrences. Wherever capital is closely organized and labor entirely unorganized there exists a fruitful field for almost any kind of industrial and social catastrophe. Add to this situation the ability of capital to play off one race against another in competition for work and there is hardly a limit to the depths to which labor may sink. Throw in the elements of absentee ownership, which knows little, and in many cases cares less, how it gets its dividends, and a political corruption which feeds on ignorance and distress, and we lay a basis for continued depression which must end only in a volcanic outburst against degraded human rights.

That there is no necessity for such conditions is proved by the many examples in industries where conciliation has been given a fair trial. Where the parties fail to bring about a voluntary conciliation, the Government should be able to take them through the preliminary stages and thus show them the benefits of peaceful adjustment. The nearest approach to such a provision is the Canadian Indus-

[1] Address presented to President Taft, December 30, 1911, requesting the appointment of an industrial commission.

trial Disputes Investigation Act. Moreover, the public learns which side deserves its sympathy and cultivates an intelligent interest in the problems that affect the disputants and the general body politic. Thus we may seek to anticipate our problems by effective publicity and the inauguration of measures that will supplement the efforts of the parties to reach a settlement and give them a chance to express and adjust their grievances when they come to a deadlock. It is hoped that this sketch of conciliation and arbitration in the coal industry of America and Great Britain will demonstrate the benefits of voluntary conciliation and the necessity for an effective, constructive, public policy.

THE END

APPENDIX

STATISTICAL TABLES

TABLE I. — ILLINOIS

Year.	Capital.	Tons Production.	No. of Mines.	Total Employees.	Av. Daily Wage.	Days Worked.	Av. Yearly Wage.
1870	$4,286,575	2,624,163	322	6,954			459.15‡
1880	10,654,261	6,089,514	590	16,301			370.27‡
1890	17,630,351	15,292,420	714	24,323 M 15,386	M 1.95	M 177	M 345.15† 357.45‡
	Value of Coal at Mine.						
1893*	17,827,595	19,949,564	788	35,390	2.15	229	492.35†
1894*	15,282,111	17,113,576	836	38,477	1.86	183	340.38†
1895*	14,239,157	17,735,864	847	38,630	2.03	182	369.46†
1899*	18,408,470	23,434,445	889	36,991	2.20	205	451.00†
1902	33,945,910 28,272,050*	32,939,373 30,021,300*	875 915*	36,617 46,005*	2.29*	209*	679.36‡ 478.61†
1903*	36,695,972	34,955,400	933	49,814	2.42	224	542.08†
1904*	40,774,223	37,077,897	932	54,774	2.65	213	564.45†
1905*	38,689,858	37,183,374	990	59,230	2.48	198	491.04†
1906*	39,895,802	38,317,581	1018	62,283	2.54	189	480.06†
1907*	49,486,396	47,798,621	933	66,714	2.63	209	549.67†
1908*	50,989,082	49,272,452	922	70,841	2.91	188	547.08†
1909*	50,303,757	49,163,710	886	72,733	2.84	180	511.20†
1910*	50,204,207	48,717,853	881	74,634	2.96	168	497.28†
1911*	56,064,494	50,165,099	845	77,410	2.98	167	497.66†

* Figures taken from state reports; other years from U.S. Census Reports. In 1902 note results of U.S. Census using *average* number employed which gives a wrong picture of yearly earnings.

† Average daily wage multiplied by number of days worked.

M = Miners. — Note close correspondence between average yearly wage of total employees and miners.

‡ Total wages divided by total employees,— used when other figures are unavailable.

TABLE II.—PENNSYLVANIA

Year.	Capital.	Tons Production.	No. of Mines.	Total Employees.	Av. Daily Wage.	Av. Days Worked.	Av. Yearly Wage.
1870	A $50,936,785	A 15,650,275	A 229	A 53,021	A { 3.75 C* / 2.50 D	A 152*	A { 476.46* T / 443.46‡
	B 16,974,918	B 7,798,518	B 359	B 16,851	B 2.50 M*		B 485.72*
1880	A 154,399,796	A 28,612,595	A 275	A 70,669			A 320.70‡
	B 38,709,344	B 18,425,163	B 666[1]	B 33,248			B 326.74‡
1883*		A 30,154,546	A 310	A 87,308	A { 2.70 C / 2.00 D		A 384.60‡ / B 374.32‡
		B 18,729,817	B 381	B 45,454	B 2.05 M	A 196	A 347.22‡
1885*		A 31,711,059	A 309	A 94,805		B 195	B 323.60‡
		B 20,647,720	B 476	B 44,206			
1890	A 161,784,473	A 46,468,641	A 362	A 124,203	A 2.39 C	A 179 C	A { 427.81† C / 317.59‡
	B 53,322,330	B 42,302,173	B 525	B 53,712	B 1.93 M	B 210 M	B { 405.30† / 386.10‡
1897*					A 1.31 D	A 233 D	A { 417.84 C—30 cases / 334.31 D—45 "
	Value of Coal at Mine.[5]						[2] { 305.23†
1902	A 76,173,586	A 41,373,595	A 334	A 69,691[3]			A 555.53‡[3]
	B 106,032,460	B 98,574,367	B 1023[1]	B 92,095[3]			B 649.86‡[3]
1902*	A 93,680,586	A 43,807,862	A 259	A 141,780	A 2.83 C	A 175 C	A { 495.97 C / 377.89 T
	B 93,725,939	B 93,174,295	B 916	B 111,229	B 2.16 M	B 232	B { 501.12 M / 505.17 T[4]

1904*	A 140,370,498	A 58,057,447	A 280	A 160,579	A { 2.96 C / 2.48 T	A 231	A { 684.78 C / 574.28 T
	B 91,936,570	B 97,490,708	B 868	B 146,331	B { 2.17 M / 2.26 T	B 204	B { 442.56 M / 452.09 T[4]
1906*	A 124,307,472	A 53,500,520	A 294	A 155,560	A { 3.09 C / 2.39 T	A 207	A { 641.13 C / 494.11 T
	B 159,226,444	B 122,493,923	B 951	B 155,602	B { 2.47 M / 2.66 T	B 205	B { 507.52 M / 545.21 T[4]
1909*	A 148,760,632	A 66,127,113	A 281	A 169,336	A { 3.06 C / 2.34 T	A 213	A { 651.28 C / 498.17 T
	B 132,837,578	B 133,824,240	B 1162	B 173,003	B { 2.01 M / 2.00 T	B 261	B { 515.47 M / 524.15 T[4]
1911	A 173,925,978	A 76,389,438	A 283	A 169,629	A { 3.19 C / 2.46 T	A 233	A { 743.79 C / 573.06 T
	B 141,040,553	B 138,398,694	B 1139	B 173,116	B { 2.27 M / 2.35 T	B 248	B { 563.69 M / 583.91 T[4]

A = Anthracite. B = Bituminous. C = Contract miners in anthracite.
D = Day workers in anthracite. M = Skilled miner in bituminous. T = Total employees.
* State reports. † Average daily wage multiplied by number of days. ‡ Total wages divided by total employees.

[1] Includes local openings.

[2] Note close correspondence between 45 and 30 cases and earnings of large number of cases in other years.

[3] Note the erroneous impression given of yearly earnings by using the *average* number employed which the U.S. Census reports. Compare with the state report of 1902. This was the year of the big strike and it was a matter of common knowledge that there were over 140,000 men in the industry. Their earnings in that year were low because of the strike.

[4] Note the instances in which the average earnings of the miners is less than the average of the total employees. The latter average is raised by the inclusion of the high wages of other skilled employees about the mines.

[5] From 1902 on, the value of coal at the mine is considered more significant than capitalization.

TABLE III. — OHIO

Year.	Capital.	Tons Production.	No. of Mines.	Total Employees.	Av. Daily Wage.	Days Worked.	Av. Yearly Wage.
1870	$5,891,813	2,527,285	307	{ 7,567 or 12,501[1]			446.82‡ 270.46‡[1]
1878*		2,819,365		M 5,404	M $1.31	M 223	293.25†
1880	13,652,484	6,008,595	618	16,331	1.44[2]	229[2]	{ 312.32‡ 330.33†[2]
1890	14,018,236	11,494,506	1745[3]	{ T 17,285 M 14,733	M 1.95	M 181	398.76‡ M 352.95†
1895*		13,355,806[6]		M 14,039	1.53	156	238.68†
1897*		12,450,822	1084[7]	22,131[4]	{ M 1.58[4] D 1.27	M 157[4] D 150	248.06† 190.50†
	Value of Coal at Mine [8]						
1902	26,953,789	23,519,894	648	{ 33,285* 25,963	2.24*	197*	441.28† 642.97‡[9]
1903*	28,135,983	24,573,266[7]	575[5]	36,460	2.60	191	496.60
1904*	24,703,137	24,583,815[7]	596[5]	37,004	2.46	173	425.58
1906*	26,864,427	27,213,495[7]	574[5]	42,080	2.61	171	446.31
1907*	33,533,667	32,365,949[7]	594[5]	44,654	2.64	202	533.28
1909*	26,745,006	27,755,032[7]	470[5]	42,138	2.53	170	430.10
1910*	34,188,366	34,424,951[7]	490[5]	43,790	2.86	220	{ 629.20†[10] 555.48
1911*	29,915,526	30,121,833	551[5]	44,056	2.80	181	506.80

* State reports. ‡ Total wages divided by total employees. † Daily wage multiplied by days worked. M = Skilled miner. T = Total employees. [1] Two quotations, makes the large discrepancy in yearly earnings. [2] Report from 187 mines. Note the approximation to ‡. [3] Includes local openings. [4] Average from nine county reports. [5] Conclusions based on this number of mines reporting. [6] An estimate in the report of 1898. [7] From reports of the inspector of mines. [8] From 1902 on, value of coal at the mine is used. [9] Note erroneous impression given of yearly earnings by the use of the *average* number employed as given by the U.S. Census. [10] The state report is in error either on the average wage, days worked, or average yearly wage.

TABLE IV.—INDIANA

Year.	Capital.	Tons Production.	No. of Mines.	Total Employees.	Av. Daily Wage.	Days worked.	Av. Yearly Wage.
1870	$554,442	437,870	46	1,109 or 1,369[1]			$599.20‡ 485.45‡
1880	2,304,720	1,454,327	216	4,469	$1.52*	222*	314.42‡ 337.44†*
1890	3,435,703	3,305,737	256	5,782 M 4,738	M 1.89	M 175	380.67‡ M 330.75†
1902	5,902,275	6,484,086	339	10,593			698.23‡[2]

* Reports from 100 mines. Note close correspondence between yearly average of these reports and yearly average obtained by dividing total wages by total employees. ‡ Total wages divided by employees. M = Miners. † Average days multiplied by days worked. [1] Two quotations. [2] This is probably too high by about $200, the same as for other states. Figures from U.S. Census Reports.

WEST VIRGINIA

Year.	Capital.	Tons Production.	No. of Mines.	Total Employees.	Av. Daily Wage.	Days worked.	Av. Yearly Wage.
1870	1,434,800	608,878	41	1,525			406.14‡
1880	5,750,674	1,829,844	129	4,497			288.70‡
1890	10,508,050	7,394,654	996[1]	8,220 M 6,367	M $1.86*	M 223	473.07‡ M 414.78†*
1902	21,694,748[4] 69,931,014	23,359,083[3] 24,570,826	408[3] 522	31,743[3] 23,914	1.45 T[3]	249[3]	447.30[3] T 565.54‡[2]
1911[5]	52,952,522[4]	54,033,186[5]	693[5]	67,776[5]	2.15 T[5] 2.34 M	194[5]	417.10 T 453.96 M[5]

These figures are taken from the U.S. Census Reports. * Note close correspondence as above. ‡ Same as above. † Same as above. M = Miners. T = Total employees. [1] Includes local mines or openings. [2] Too high, as result of using average number employed. [3] From State Mine Inspector's Reports. [4] Value of coal at the mine. [5] State Mine Inspector's Reports.

TABLE V

COMPARISON OF WAGES, WORKING DAYS, HOURS PER YEAR, RATES PER HOUR, OF PICK-MINERS

Year.	State.	Total Yearly Wages.[1]	Working Days.[1]	Hours per Year.[2]	Cents per Hour.
1904	Illinois	$565.30	213	1704	.33
	Ohio	444.50	175	1400	.32
	Pennsylvania	442.56	204	1632	.27
	West Virginia	484.96	209	2090	.23
1905	Illinois	492.32	198	1584	.31
	Ohio	468.05	185	1480	.32
	Pennsylvania	491.29	225	1800	.27
	West Virginia	508.01	213	2130	.24
1906	Illinois	480.86	186	1512	.32
	Ohio	504.14	182	1456	.35
	Pennsylvania	519.30	205	1640	.32
	West Virginia	599.37	231	2310	.26
1907	Illinois	549.39	209	1672	.33
	Ohio	555.75	195	1560	.36
	Pennsylvania	601.91	268	2144	.28
	West Virginia	643.05	234	2340	.27
1908	Illinois	546.97	188	1504	.36
	Ohio	402.48	156	1248	.31
	Pennsylvania	447.00	238	1904	.23
	West Virginia	503.84	211	2110	.24
1909	Illinois	510.66	180	1440	.35
	Ohio	483.60	186	1488	.35
	Pennsylvania	524.33	261	2088	.25
	West Virginia	481.17	192	1920	.25
1910	Illinois	497.71	168	1344	.37
	Ohio	486.50	175	1400	.35
	Pennsylvania	588.36	264	2112	.28
	West Virginia	573.94	229	2290	.25
1911	Illinois	498.09	167	1336	.37
	Ohio	556.80	192	1536	.36
	Pennsylvania	572.98	248	1984	.29
	West Virginia	570.48	194	1940	.29

[1] Obtained from State Reports.
[2] Obtained by multiplying the working days by eight or ten hours according to length of working day in each state.

TABLE VI

AVERAGE PRODUCTION PER MINE AND PER EMPLOYEE FROM 1850–1902 [1]

	1902	*1889*	*1880*	*1870*	*1860*	*1850*
Average Product.						
Per mine — tons	50,383	53,578	21,701	20,986	23,045	12,539
Per employee — tons	565	476	422	347	393	426

[1] U.S. Census Report, 1902, Mines and Quarries, p. 669.

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